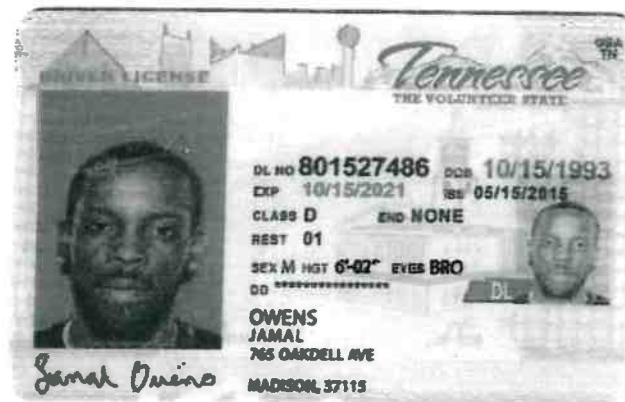
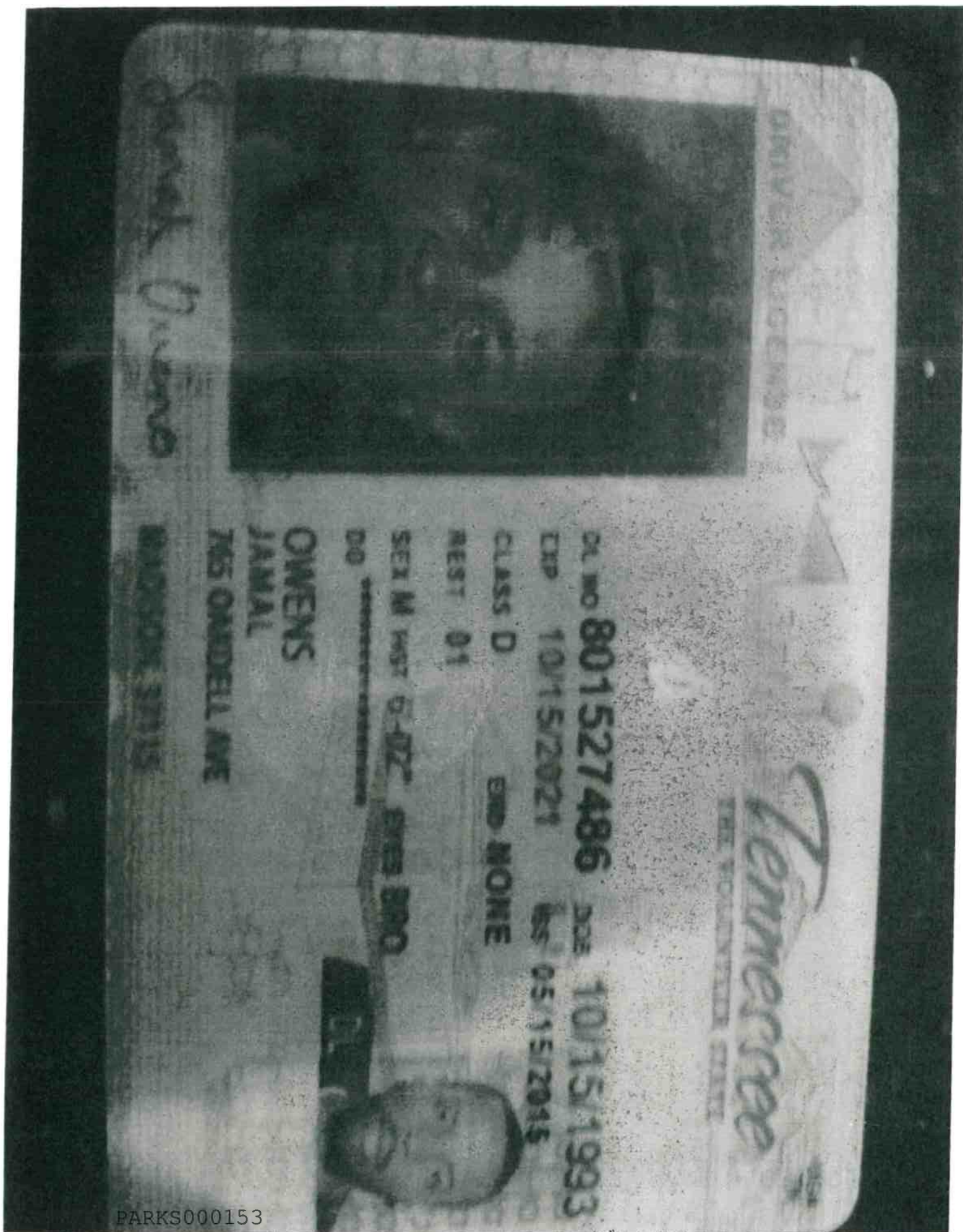


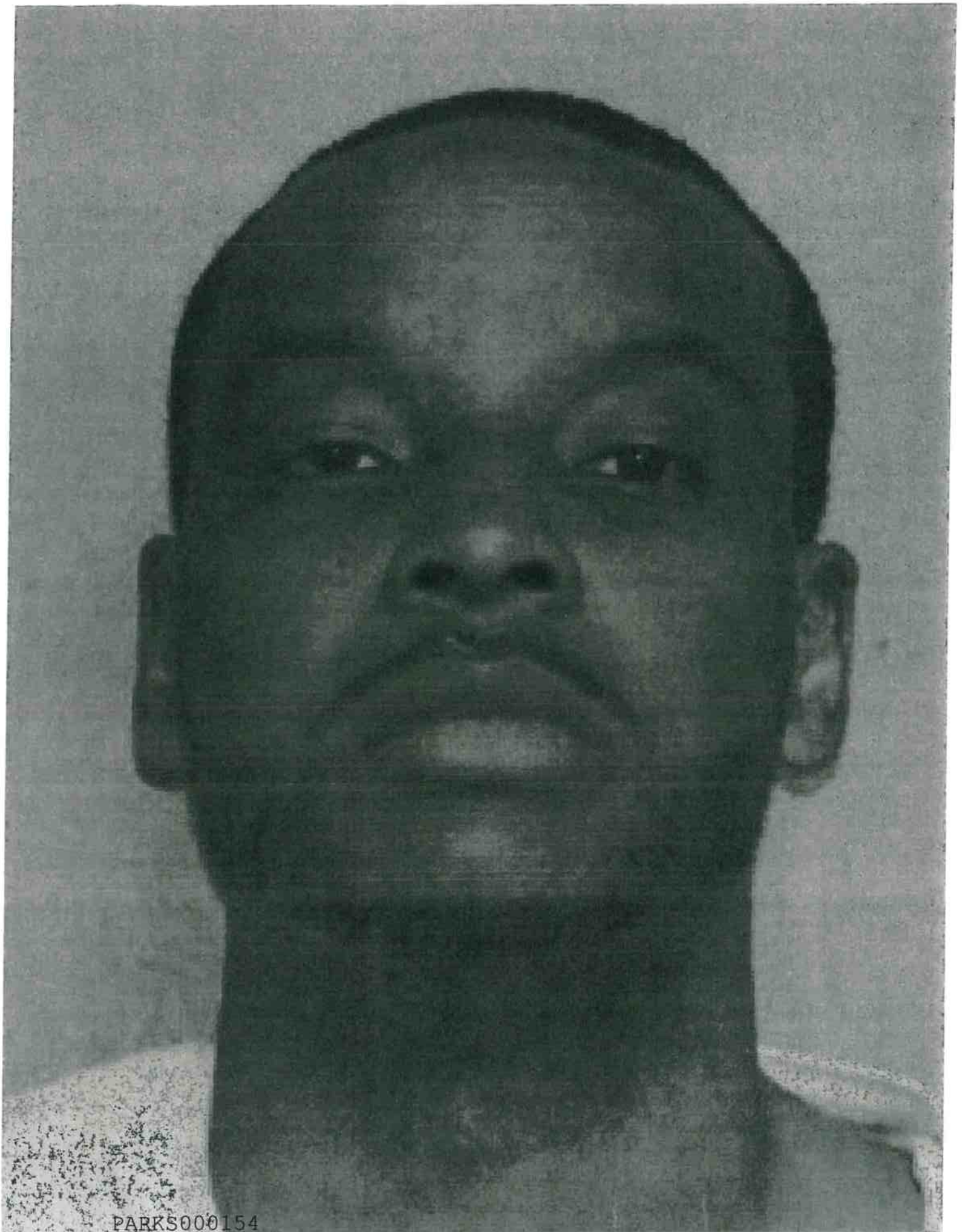
EXHIBIT “A”



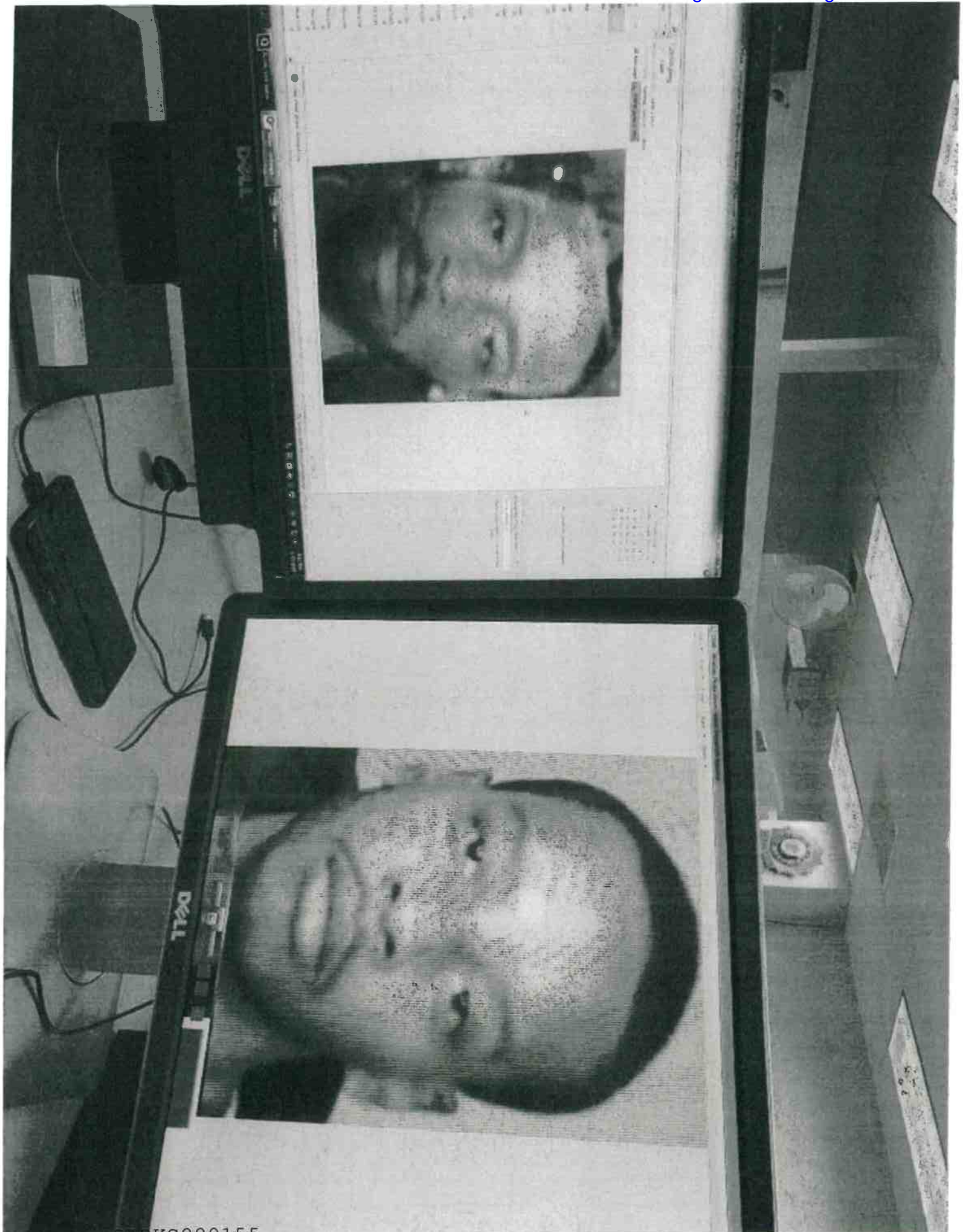
PARKS000152



PARKS000153



PARKS000154



PARKS000155

EXHIBIT “B”

FREDRICK L. RUBENSTEIN, ESQ.

ATTORNEY ID. NO. 004651994

JAMES P. NOLAN AND ASSOCIATES, L.L.C.

61 GREEN STREET, WOODBRIDGE, NEW JERSEY 07095

TELEPHONE: (732) 636-3344 FAX: (732) 636-1175

Attorneys for Defendants, John E. McCormac, Mayor of Woodbridge, Robert Hubner, Director of the Woodbridge Police, Township of Woodbridge, Woodbridge Police Officer Andrew Lyszyk and Woodbridge Police Sergeant Joseph Licciardi

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

NIJEER PARKS,

Plaintiff,

CIVIL ACTION NO.

2:21-cv-04021-JXN-LDW

-V-

DEFENDANT, ROBERT HUBNER' S,

CERTIFIED ANSWERS TO PLAINTIFF'S

FIRST SET OF INTERROGATORIES

JOHN E. MCCORMACK, MAYOR OF :
WOODBRIIDGE, In his personal :
and official capacity, ROBERT :
HUBNER, DIRECTOR OF THE :
WOODBRIIDGE POLICE In his :
personal and official capacity: :
CITY OF WOODBRIDGE POLICE :
OFFICERS, ANDREW LYSZYK and :
WOODBRIIDGE POLICE SGT. JOSEPH :
LICCIARDI, WOODBRIDGE POLICE :
OFFICERS JOHN AND JANE DOE 1- :
20, MIDDLESEX DEPARTMENT OF :
OF CORRECTIONS, MIDDLESEX :
COUNTY PROSECUTOR, ACTING :
PROSECUTOR CHRISTOPHER :
KUBERIET, in his personal and :
Official capacity, and :
ASSISTANT MIDDLESEX COUNTY :
PROSECUTOR PETER NATASI, and :
IDEMIA, INC.'S being the maker: :
of the facial recognition :
software and ABC CORPORATION, :
being an as yet unknown seller: :
or servicer of the facial :
recognition programs,

Defendants.

TO: Daniel W. Sexton, Esq.
DANIEL W. SEXTON, L.L.C.
229 New Centre Road
Hillsborough, New Jersey 08844
Attorneys for Plaintiff

**DEFENDANT ROBERT HUBNER'S CERTIFIED ANSWERS TO PLAINTIFF NIJEER
PARKS'S FIRST SET OF INTERROGATORIES**

1. State the names, titles, counsel and contact information and addresses of all persons known to you to possess knowledge of any relevant facts relating to the case and give a summary of each person's knowledge.

ANSWER:

- a) Police Officer Andrew Lyszyk #519
1 Main Street
Woodbridge, New Jersey 07095

Officer Lyszyk was on scene on with suspect on January 26, 2019. Signed Complaint-Warrant #2019000158.

- b) Lieutenant Joseph Licciardi #450
1 Main Street
Woodbridge, New Jersey 07095

Lieutenant Licciardi approved the Incident Report filed by Police Officer Andrew Lyszyk.

- c) Detective Santiago Tapia #481
1 Main Street
Woodbridge, New Jersey 07095

Detective Tapia forwarded photo of suspect's fake Driver's License to Regional Operations Information Center and signed Complaint-Warrant #2019000156.

- d) Police Officer Francis Lee #591
1 Main Street
Woodbridge, New Jersey 07095

Officer Lee was on scene with suspect on January 26, 2019. Identified Suspect at Woodbridge Police Headquarters during arrest processing.

- e) Detective Jorge Quesada #525
1 Main Street
Woodbridge, New Jersey 07095

Detective Quesada collected evidence on scene on January 26, 2019.

- f) Sergeant Scott Flavell #405
1 Main Street
Woodbridge, New Jersey 07095

Sergeant Flavell located suspect's vehicle and had same towed to Woodbridge Police Headquarters.

- g) Sergeant Anthony Penicaro #472
1 Main Street
Woodbridge, New Jersey 07095

Sergeant Penicaro approved Incident Report filed by Detective Tapia and was present when Plaintiff, Nijeer Parks, was being processed for his arrest.

- h) Police Officer David Mirdala #547
1 Main Street
Woodbridge, New Jersey 07095

Booking Officer during Plaintiff, Nijeer Parks's, arrest.

- i) Police Officer Stephanie Andersen #493
1 Main Street
Woodbridge, New Jersey 07095

Officer Anderson approved Incident Reports filed by Officer Mirdala and Officer Lee.

- j) Detective Andrew Kondracki #545
1 Main Street
Woodbridge, New Jersey 07095

Detective Kondracki interviewed Plaintiff, Nijeer Parks, while Plaintiff was in custody on February 5, 2019.

- k) Richard Charneco
370 Route 9 North
Woodbridge, New Jersey 07095

Mr. Charneco was the Manager of the Hampton Inn on January 26, 2019.

- l) Caleigh Higgins
370 Route 9 North
Woodbridge, New Jersey 07095

Ms. Higgins was working as a front desk clerk at the Hampton Inn on January 26, 2019.

- m) Kamisha Grant
370 Route 9 North
Woodbridge, New Jersey 07095

Ms. Grant was working as a front desk clerk at the Hampton Inn on January 26, 2019.

- n) Michael Dones
370 Route 9 North
Woodbridge, New Jersey 07095

Mr. Dones was the Manager of the Hertz Rental at the Hampton Inn on January 26, 2019.

Defendant reserves the right to amend this answer throughout the continuing course of discovery.

- 2. Provide your complete understanding of the police response to the incident at the Hampton Inn on January 26, 2019, through the arrest and prosecution, providing a detailed narrative of the same to Plaintiff and append any and all relevant documents including reports.

ANSWER:

On January 26, 2019, Officer Francis Lee and Officer Andrew Lyszyk were dispatched to the Hampton Inn on Route 9 North due to reports of shoplifting of certain "snacks" from the gift shop. Headquarters advised that the Suspect's vehicle, a Gray Dodge Challenger, NY License Plate JBD2162, was parked in front of the Hampton Inn. Officer Lee arrived on scene prior to Officer Lyszyk and was already speaking to the Suspect, an African-American male, who identified himself as "Jamal Owens."

Officer Lyszyk approached the Hampton Inn front desk and spoke to the manager, Richard Charneco, and two clerks, Caleigh Higgins and Kamisha Grant. Mr. Charneco advised that he called the police

after a member of the hotel cleaning staff informed him that the male placed assorted snack items into a bag and then took the bag out to his vehicle. Officer Lyszyk told the male that the manager wanted him to pay for the snacks and asked him where the snacks were. The male explained that the snacks were in his vehicle and the male and Officer Lyszyk walked out to his vehicle to retrieve them. They returned to the front desk where the male paid for the snacks. At this time, the male also purchased a bottle of water and drank it during the transaction. The male then threw the bottle away in the hotel garbage can.

Officer Lee informed Officer Lyszyk that the Tennessee driver's license produced by the male identified him as "Jamal Owens" 765 Oakdell Avenue, Madison, TN 37115. Officer Lee advised that the driver's license produced was not coming back on file, and Officer Lyszyk took the driver's license to his police vehicle to check again, with negative results. Officer Lyszyk noted multiple discrepancies with regard to the authenticity of the driver's license, including asterisks where numbers were supposed to appear and a zip code containing only five digits instead of nine.

Officer Lyszyk contacted the Tennessee State Police and spoke with Supervisor Jason Beary in an attempt to cross-check with the Tennessee DMV files. Again, the driver's license number and name "Jamal Owens" was not on file. Supervisor Beary also indicated that a Tennessee driver's license should start with an "o" instead of an "8."

Officer Lyszyk returned to the lobby and asked the male if he had any other forms of identification. The male produced a credit card with the name "Jamal Owens." The male indicated that he was not a guest of the hotel and was only there for the Hertz rental car service.

Since the male admitted to shoplifting the snacks and Officers Lee and Lyszyk were unable to identify him, Officer Lyszyk began to arrest the male. When the male placed his hands behind his back, Officer Lyszyk noticed a bag of suspected marijuana protruding from his jacket pocket. Officer Lyszyk grabbed the male by the wrist, removed the bag of marijuana and threw it on the ground. While attempting to handcuff the male, he slipped from Officer Lyszyk's grip and ran towards the rear of the hotel.

When the male reached the rear door, which is right next to the Hertz Rental kiosk, his right sneaker fell off. The male reached a closed gate but pushed through and continued to run.

Officers Lee and Lyszyk chased the male on foot and during the pursuit, the male repeatedly turned back to look in the direction of the pursuing officers with his right hand placed on his jacket pocket. The officers caught up with the male at his vehicle. Officers Lee and Lyszyk drew their service weapons and pointed them at the suspect as he sat in the driver's seat of his locked and running vehicle. Officer Lyszyk was on the passenger side of the vehicle and Officer Lee was on the driver's side. The male refused requests to turn the vehicle off and unlock the doors. The male placed the car in reverse, backed up a few feet, then stopped. Officers Lee and Lyszyk repeatedly demanded that the male turn off the vehicle and unlock the doors.

After several minutes of refusing the officers' commands, the male placed the car in drive, hit the gas, turned the steering wheel to the left, struck the rear driver's side door of patrol vehicle #3, and then hit the pillar in front of the Hampton Inn. When that happened, the male turned his vehicle towards Officer Lee, who had to abruptly move out of the way to avoid serious injury. The suspect fled the Hampton Inn parking lot at a high rate of speed and entered Route 9 North.

Officers Lee and Lyszyk got into their police vehicles and attempted to follow the fleeing suspect. When they were unable to locate the suspect, they returned to the Hampton Inn to secure the scene. Prior to leaving the scene, Officer Lyszyk notified Detective Quesada that the male left his right shoe and water bottle behind. Officer Lyszyk also advised that he still had the male's driver's license in his possession. Officer Lyszyk transported these items to headquarters without incident. At this point, the Detective Bureau took over the investigation.

See Incident Reports attached hereto, Bates Labeled PARKS000060-PARKS000078. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

3. Provide an exhaustive list of any and all bias and/or demeanor complaints including both complaints made only internally and those resulting in litigation, against any member of the Woodbridge Police Department (WPD) from January 26, 2016, until January 26, 2021, appending copies of same and including in your response the following information: (a) the name of the complainant; (b) the nature of the allegation; (c) the disposition of the matter.

ANSWER:

Defendant objects to the request for internal complaints as these documents are part of Defendant Officers' personnel files and will not be produced without a Court Order. If/When said Court order is obtained, Defendants will produce all relevant documents in response to this request following the redaction of any personal identifiers and other confidential information. Complaints resulting in litigation are to be provided. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

4. Provide an exhaustive history of the use of facial recognition by the WPD, providing: (a) names of any and all such technology, makers and providers, providing all marketing materials or guidelines for use; (b) names of any and all external agencies which worked with the WPD using facial recognition technology, e.g., Regional Operations Intelligence Center (ROIC), the New York Intelligence Center (NYSIC), and provide a history of such cooperation; (c) list of all arrests effectuated by the WPD which relied in any part on facial recognition technology, giving the date, nature of the underlying crime, and provide copies of all relevant reports; (d) an account of all policies, rules, regulations, and training related to the use of facial recognition technology by the WPD, also providing true copies of any such documents.

ANSWER:

I have no personal knowledge with respect to the use of Facial Recognition Technology. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

5. Provide an exhaustive history of any discipline, including a written warning, to any member of the WPD for the misuse of facial recognition technology.

ANSWER:

None known at this time. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

6. Provide an exhaustive list of any and all excessive force or false arrest complaints, including both complaints made only internally and those resulting in litigation, against any member of the WPD from January 26, 2016, until January 26, 2021, appending copies of same and including in your response the following information: (a) the name of the complainant;

(b) the nature of the allegation; (c) the disposition of the matter.

ANSWER:

Defendant objects to the request for internal complaints as these documents are part of Defendant Officers' personnel files and will not be produced without a Court Order. If/When said Court order is obtained, Defendants will produce all relevant documents in response to this request following the redaction of any personal identifiers and other confidential information. Complaints resulting in litigation are to be provided. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

7. Provide an exhaustive list of any and all alleged false arrests, including both complaints made only internally and those resulting in litigation, against any member of the WPD from January 26, 2016, until January 26, 2021, appending copies of same and including in your response the following information: (a) the name of the complainant; (b) the nature of the allegation; (c) the disposition of the matter.

ANSWER:

See response to Interrogatory #6. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

8. Set forth in detail all declarations against interest in any form obtained by You, Your Attorney, or anyone acting on Your behalf, including the name(s), address(es), employer(s) and job title(s) of the person(s); dates; and whether such statements were written or oral, and provide copies of same.

ANSWER:

None known at this time. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

9. State the name, address, and field of expertise of each person upon whose expert testimony You may rely upon at the time of trial.

ANSWER:

No experts have been retained at this time. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

10. Identify and provide a true copy of the curriculum vitae, each written report, including drafts, (or detailed resume if report was oral) of every expert retained or consulted by You, including any person who has conducted an examination, whether or not you intend to use such expert at the time of trial; identify and provide true copies of all correspondence and agreements with such expert; identify and provide the comparison agreement and/or all amounts paid to such expert.

ANSWER:

See Answer to Interrogatory #9. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

11. State whether (and how) any person named in the above Interrogatories is related by blood, marriage, law, contract, employment, or in any other way to the person(s) to whom these questions are addressed.

ANSWER:

I am not related to any person named in these Interrogatory Answers, either by blood, marriage, law or contract. I have an employment relationship with members of the Woodbridge Police Department through my role as civilian Director of Police. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

12. Identify and provide true copies of all photographs, videos, movies, slides or other visual, electronic, computer and/or audio records that were taken by You or on Your behalf, which relates to the subject matter of this litigation, including, but not limited to, the video obtained from the Hampton Inn of the incident on January 26, 2019. In the event that said videotape of January 26, 2019 is not available, please give a complete account of it, including when the WPD asked for it, when it was obtained, and what happened to it.

ANSWER:

See Investigation Photographs attached hereto, Bates Labeled as PARKS000152-PARKS000171. See Hampton Inn Surveillance Video, attached hereto, Bates labeled as PARKS000173. Defendant reserves

the right to amend this answer throughout the continuing course of discovery.

13. Provide a list of all insurance policies, including excess policies, which pertain to acts or omissions of the WPD and its members, providing copies of the Declaration Page.

ANSWER:

See Central Jersey Joint Insurance Fund Declarations Sheet attached hereto, Bates Labeled as PARKS000150. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

14. Provide a complete account of the policies and practices of the WPD concerning the gathering of evidence, including, but not limited to, fingerprints, DNA, and video surveillance, and the subsequent safekeeping of said evidence.

ANSWER:

See CODIS Fact Sheet attached hereto, Bates Labeled as PARKS000122-PARKS000133. See Woodbridge Collection and Preservation of Evidence Policy and Procedures attached hereto, Bates Labeled as PARKS000134-PARKS000147. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

15. Please provide a complete account of the gathering of evidence related to the incident on January 26, 2019 at the Hampton Inn, including the safekeeping of said evidence and the use or failure to use said evidence, including, but not limited to, the following evidence: (a) fingerprints of suspect; (b) DNA of suspect; (c) video surveillance of suspect; (d) analysis of clothing of suspect, e.g., sneaker of suspect.

ANSWER:

Officers Lee and Lyzsyk ended their pursuit of the suspect and returned to the Hampton Inn to secure the scene. Upon their arrival on scene, Mr. Charneco advised Officer Lyzsyk that he collected the items that were dropped on the floor, placed them in a bag, and moved it to the side. Mr. Charneco gave Officer Lyzsyk the bag and he secured it in his police vehicle. Officer Lyzsyk then notified headquarters that additional units were needed to help preserve the scene. Officer Lyzsyk also asked headquarters to notify the detective bureau about the incident and the need to

have the scene processed. Officer Campagnio arrived on scene and preserved the rear gate. Officer Lee preserved the rear door. Officer Montalvo preserved the front entrance where the motor vehicle crash occurred. Detective Tapia and Detective Quesada arrived and began to process the scene.

Prior to leaving the scene, Officer Lyszyk notified Detective Quesada that the male left his right shoe and water bottle behind. Officer Lyszyk also advised Detective Quesada that he still had the male's driver's license in his possession. Officer Lyszyk transported these items to headquarters without incident and placed them into the evidence locker for safekeeping. At this point, the Detective Bureau took over the investigation.

Detective Quesada photographed the scene and collected three fingerprints from the rear glass door that the suspect pushed open as he fled the scene. After the suspect's vehicle was located on January 27, 2019, a consent search was conducted and five additional fingerprints were lifted from the vehicle. A vape pen was also recovered from the vehicle. See Investigation Photos attached hereto, Bates Labeled as PARKS000152-PARKS000171. Back at headquarters, Detective Quesada took custody of the evidence collected and submitted same for DNA analysis and fingerprint comparison.

On January 22, 2021, Detective Quesada received the results of the fingerprint comparison, which identified Barrington Walker as the suspect. See Fingerprint Results Report attached hereto, Bates Labeled as PARKS000148. On July 30, 2021, Detective Quesada received the results of the DNA analysis which also identified Barrington Walker as the suspect. See DNA Results Report attached hereto, Bates Labeled as PARKS000149.

Defendant reserves the right to amend this answer throughout the continuing course of discovery.

16. Please provide a complete account of how the WPD works together with, or at the direction of, the Middlesex Prosecutor's Office, in the investigation of crimes and the execution of arrest warrants and criminal complaints, providing copies of any relevant agreements, policies, and procedures.

ANSWER:

The Middlesex County Prosecutor's Office (MCPO) is the lead law enforcement agency in Middlesex County. MCPO assigns an

Assistant Prosecutor to serve as a liaison to the Woodbridge Police Department. The MCPO liaison to Woodbridge is Assistant Prosecutor Peter Natasi. When an officer files a complaint alleging an indictable offense, the Department will contact MCPO to discuss the factual allegations and obtain a legal opinion as to the proper charges to be brought against the suspect. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

17. Was the arrest of Plaintiff for the events of January 26, 2019 the result of input or assistance from the Middlesex Prosecutor's Office, and if yes, provide the following information: (a) Names, ranks, assignment of all persons involved, both from the WPD and the Middlesex Prosecutor's Office; (b) Describe in detail the assistance and involvement of the Middlesex Prosecutor's Office; (c) Provide copies of any and all communications at any time between the WPD or any member of the WPD and the Middlesex Prosecutor's Office or any member of the Middlesex Prosecutor's Office.

ANSWER:

The Middlesex County Prosecutor's Office was involved in this matter to the extent that Assistant Prosecutor Peter Natasi reviewed the complaint and, based on the information available at that time, advised as to what charges should be brought. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

18. Please provide a complete account of how the WPD worked together with, or at the direction of, the Middlesex Prosecutor's Office, in the investigation of crimes and the execution of arrest warrants and criminal complaints, providing copies of any relevant agreements, policies, and procedures.

ANSWER:

See response to Interrogatory #16. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

19. Please give a complete account of the arrest of Plaintiff, including the names of all persons who took part in the arrest, provide any papers signed by Plaintiff during the arrest, copies of any papers provided to Plaintiff during the

arrest, and copies of all video surveillance of Plaintiff during his arrest.

ANSWER:

On February 5, 2019, Plaintiff, Nijeer Parks, presented to the Woodbridge Police Station in reference to his active warrants, #2019000156 and #2019000158. See Complaint-Warrant #2019000156 attached hereto, Bates Labeled as PARKS000001-000010. See Complaint-Warrant #2019000158 attached hereto, Bates Labeled as PARKS000011-PARKS000023. Prior to being interviewed by Detective Kondracki, Plaintiff was read his Miranda Rights and signed waiver of same. See Miranda Card attached hereto, Bates Labeled as PARKS000121. Thereafter, Detective Kondracki conducted the interview in the interview room at Woodbridge Police Station. See Interview Transcript attached hereto, Bates Labeled as PARKS000045-PARKS000059.

Plaintiff was booked and processed by Officer Mirdala. Officer Lee was contacted by Lieutenant Ng, who advised that the suspect from the January 26, 2019 Hampton Inn incident was in custody. Officer Lee was brought to the processing area accompanied by Lieutenant Ng and Detective Sergeant Penicaro. Officer Lee observed Plaintiff, Nijeer Parks, sitting in the processing area and identified him as being the suspect from the January 26, 2019 incident. Plaintiff was thereafter transported to Middlesex County Jail. See Booking Report attached hereto, Bates Labeled as PARKS000036-PARKS000044. See Incident Reports attached hereto, Bates Labeled as PARKS000060-PARKS000078.

Defendant reserves the right to amend this answer throughout the continuing course of discovery.

20. Please provide a complete account of all communications between the WPD, and any of its members, and the Middlesex Prosecutor's Office, and any employee there, from January 26, 2019 up until the present day, relating to any and all aspects of this matter, giving the following information: (a) the identities of the individuals making, receiving or being copied on these communications; (b) the dates of these communications; (c) the substance of any such communication.

ANSWER:

I do not have any knowledge with respect to communications between the Middlesex County Prosecutor's Office and the Woodbridge Police Department in this matter. I am a civilian

Director of Police and I am not involved in criminal investigations. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

21. Provide an account of all claims made against the WPD, or any of its members, alleging anti-black bias from January 26, 2009 until January 1, 2020, whether the claim is by a governmental entity, member of the public, or by an employee, and include the following information in your response: (a) the name and position of complainant; (b) the name of the officer or employee who is the subject of the complaint; (c) the nature of the complaint; (d) the disposition of the complaint.

ANSWER:

Defendant objects to this request as overbroad and unduly burdensome. Defendant further objects to the request for internal complaints as these documents are part of Defendant Officers' personnel files and will not be produced without a Court Order. If/When said Court order is obtained, Defendants will produce all relevant documents in response to this request following the redaction of any personal identifiers and other confidential information. Complaints resulting in litigation are to be provided. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

22. Provide an account of all claims made against the WPD, or any of its members, alleging anti-black bias from January 26, 2009 until January 1, 2020, whether the claim is by a governmental entity, member of the public, or by an employee, and include the following information in your response: (a) the name and position of complainant; (b) the name of the officer or employee who is the subject of the complaint; (c) the nature of the complaint; (d) the disposition of the complaint.

ANSWER:

See Answer to Interrogatory #21. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

23. Provide an account of all claims made against the WPD, or any of its members, asserting Monell liability from January 26, 2009 until January 1, 2020, whether the claim is by a member of the public or by an employee, and include the following information in your response: (a) the name and position of

complainant; (b) the name of the officer or employee who is the subject of the complaint; (c) the nature of the complaint, including the theory upon which Monell liability is based, e.g., unconstitutional policy, failure to train, negligent hiring, failure to discipline, etc.; (d) the disposition of the complaint.

ANSWER:

Defendant objects to this request as overbroad and unduly burdensome. Defendant further objects to the request for internal complaints as these documents are part of Defendant Officers' personnel files and will not be produced without a Court Order. If/When said Court order is obtained, Defendants will produce all relevant documents in response to this request following the redaction of any personal identifiers and other confidential information. Complaints resulting in litigation are to be provided. Defendant reserves the right to amend this answer throughout the continuing course of discovery. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

24. Provide a summary of the disciplinary history of Det. S. Tapia, Lt. J. Licciardi, Officer Lyszyk, Det. Sgt. Penicaro, Officer Mirdala, and Officer Anderson, as well as divulging any and all complaints made against each by citizens or peers, also providing a copy of all relevant documents including the personnel files, IA files, and Academy file for each.

ANSWER:

Defendant objects to this request as these documents are part of Defendant Officers' personnel files and will not be produced without a Court Order. If/When said Court order is obtained, Defendants will produce all relevant documents in response to this request following the redaction of any personal identifiers and other confidential information. Defendant reserves the right to amend this answer throughout the continuing course of discovery.

CERTIFICATION

I hereby certify that the foregoing statements made by me are true, I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

I further certify that copies of any and all reports by experts and others and any and all writings annexed hereto are exact and true copies of the entire reports and/or writings; that the existence of any other report or writing of said experts or others; either written or oral, is unknown to me and if such become later known or available, I shall serve them promptly upon the propounding party.

I further acknowledge the continuing obligation to provide the information and documentation requested by these interrogatories, and to provide same even after the original of these interrogatories have been submitted.


Robert Hubner

Dated: 12-28-21

EXHIBIT “C”

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 2:21-cv-04021 (JSX)(LDW)

X----- X

NIJEER PARKS,
Plaintiff,
v.
ANDREW LYSZK
JOHN E. McCORMACK, MAYOR OF
WOODBIDGE, In his personal
and official capacity,
ROBERT HUBNER, DIRECTOR OF
THE WOODBRIDGE POLICE, In
his personal and official
capacity, CITY OF WOODBRIDGE
POLICE OFFICERS, ANDREW
LYSZK and WOODBRIDGE POLICE
SGT. JOSEPH LICCARDI,
WOODBIDGE POLICE OFFICERS
JOHN AND JANE DOE 1-20,
being as yet unknown actors,
MIDDLESEX DEPARTMENT OF
CORRECTIONS, JOHN AND JANE
DOES 1-20, being unknown
actors, MIDDLESEX COUNTY
PROSECUTOR, ACTING
PROSECUTOR CHRISTOPHER
KUBERIET, In his personal
and official capacity, and
ASSISTANT MIDDLESEX COUNTY
PROSECUTOR PETER NATASI, and
IDEMIA INC.'S being the
maker of the facial
recognition software and ABC
CORPORATION, being an as yet
unknown seller or servicer
of the facial recognition
programs,
Defendants.
X----- X
HUDSON COURT REPORTING & VIDEO (732) 906-2078

TRANSCRIPT of the stenographic notes
of the proceedings in the above-entitled matter as
taken by and before CARMEN WOLFE, a Certified
Court Reporter and Notary Public of New Jersey,
at offices of JAMES P. NOLAN AND ASSOCIATES LLC, 61
Green Street, Woodbridge, New Jersey on Tuesday, August
16, 2022 commencing at 1:00 in the afternoon.

HUDSON COURT REPORTING
90 WOODBRIDGE CENTER DRIVE, SUITE 240
WOODBIDGE, NJ 07095
Toll-Free 800.310.1769 | NJ 732.906.2078 | NY
212.273.9911
scheduling@hudsoncourtreporting.com |
www.hudsonreporting.com

APPEARANCES

DANIEL W. SEXTON ESQ, LLC
BY: DANIEL W. SEXTON, ESQ.
danielsextonesq@gmail.com
229 New Center Road
Hillsborough, New Jersey 08844
Attorneys for the Plaintiff.

JAMES P. NOLAN AND ASSOCIATES LLC
BY: FREDERICK L. RUBENSTEIN, ESQ.
frubenstein@jpnlaw.us
-and-
GARRY CLEMENTE ESQ.
61 Green Street
Woodbridge, New Jersey 07095
Attorneys for the Defendants Woodbridge.

DVORAK & ASSOCIATES LLC
BY: GRACE E. LEMPKA, ESQ.
glempka@dvoraklegal.com
467 Middlesex Avenue
Metuchen, New Jersey 08840
Attorneys for the Defendants, Middlesex County
Department of Corrections.

INDEX

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
ANDREW LYSZK				
By Mr. Sexton	5	54		
By Mr. Rubenstein		50		

EXHIBITS

NUMBER	DESCRIPTION	PAGE
P-AA	Andrew Lyszk's report, dated 1/26/19	5
P-BB	Andrew Lyszk's Affidavit of Probable Cause	5
P-CC	Andrew Lyszk's resume	5
P-DD	Complaint and Affidavit of Probable Cause	40

(Exhibits retained by counsel.)

Page 5

1 (Plaintiff's Exhibits P-AA through P-CC
2 are marked for identification.)
3
4 ANDREW LYSZK, having been sworn by the court reporter,
5 testifies as follows:
6
7 DIRECT EXAMINATION BY MR. SEXTON:
8 Q. Good afternoon, Officer.
9 A. Hi.
10 Q. Have you had your deposition taken
11 before?
12 A. I believe so.
13 Q. Okay. In what context did you have your
14 deposition taken?
15 A. It's been a long time. Probably 15 years ago.
16 So --
17 Q. Was it a case involving the department?
18 A. No. It was just a trial.
19 Q. What kind of trial? Criminal trial?
20 A. Criminal trial. Yes.
21 Q. Have you ever had your testimony taken
22 in a private matter?
23 A. Not like this. No.
24 Q. Just a couple of rules then. You see
25 the record's being taken down --

Page 6

1 A. Yes.
2 Q. -- of the proceeding. So we have to
3 communicate verbally. She can't note nods and kind of
4 body language or stuff. So we have to make sure we
5 articulate our responses. If there's a question you
6 don't understand, I'll be happy to rephrase it. From
7 time to time your attorney will make objections. Those
8 are mostly for the record, and we just continue on. If
9 there comes a time where he instructs you not to
10 answer, then he and I will try to hash that out and
11 then resume. You should testify to the best of your
12 recollection. You shouldn't make pure guesses, though.
13 We have to let each other finish. You can't anticipate
14 where we're going and talk over each other because that
15 makes the reporter go crazy because she can't record
16 two people talking at once. So, when did you join the
17 department?
18 A. In 2006 of June.
19 Q. This was premarked as Plaintiff's Double
20 C. So is that your resume?
21 A. Yes.
22 Q. When did you join the department?
23 A. 2006.
24 Q. Okay. Is this resume up-to-date?
25 A. Yes.

Page 7

1 Q. So what's American Military University?
2 A. College.
3 Q. Where is that located?
4 A. I believe Virginia. It's online based.
5 Q. And these 90-day rotations, were they in
6 the early part of your career?
7 A. Yes.
8 Q. And are those rotations, are they
9 standard for every member of the department?
10 A. If you put in for it.
11 Q. So were those rotations would it be safe
12 to say they were done in the first couple of years of
13 your career as a police officer?
14 A. Within the first eight years probably.
15 Q. In 2019 what was your assignment?
16 A. Patrol.
17 Q. And what was your shift?
18 A. 6:00 A.M. to 4:00 P.M.
19 Q. To 4:00 P.M.?
20 A. Yes.
21 Q. Is Woodbridge divided into districts or
22 is it one --
23 A. It's multiple areas. Four areas.
24 Q. And did you have a regular area you were
25 assigned to on patrol?

Page 8

1 A. Most likely the 2N.
2 Q. What does that consist of?
3 A. Ford, Hopelawn and Keasbey.
4 Q. Are those streets?
5 A. Towns.
6 Q. Are they like sections of Woodbridge?
7 A. Yes.
8 Q. How many patrol areas is the township
9 broken up into?
10 A. Four.
11 Q. Where does the Hampton Inn fall in?
12 A. That's the Woodbridge section which borders --
13 which borders Fords.
14 Q. So other than these rotations, is it
15 safe to say you've been on patrol for your entire
16 career?
17 A. Yes.
18 Q. What do you recall about the incident at
19 the Hampton Inn on the 26th of January 2019?
20 A. We got called there for a shoplifter.
21 Q. Who called you?
22 A. Not sure who called, but I got dispatched out
23 there.
24 Q. Did you have a partner at that time?
25 A. We drove alone daytime.

Pages 5 to 8

Page 9

1 Q. So what did you do after you were called
2 by dispatch?
3 A. Responded to Hampton Inn.
4 Q. What did you find when you got there?
5 A. When I got there Officer Lee was already there
6 with a male.
7 Q. Where did you find them?
8 A. I believe in the lobby.
9 Q. Can you describe the male who Officer
10 Lee was with?
11 A. Black male. I can't tell you specifics anymore.
12 It's been a while.
13 Q. Do you remember anything about facial
14 hair?
15 A. I don't want to say. I'm not a hundred percent
16 about it.
17 Q. Hardly anything's a hundred percent. Do
18 you have any recollection?
19 A. I don't want to make guesses.
20 Q. How about his build?
21 A. He was taller.
22 Q. Heavy or athletic?
23 A. Not sure because I know he had a jacket on.
24 Q. Do you remember anything about his dress
25 other than there was a jacket?

Page 10

1 A. He had a jacket. I don't remember what he was
2 wearing.
3 Q. So where did you come upon them? Where
4 were they?
5 A. The lobby.
6 Q. Were you familiar with the Hampton Inn?
7 A. The lobby area, yes.
8 Q. How were you familiar with that lobby in
9 the Hampton Inn?
10 A. We've been there for previous calls.
11 Q. What kind of previous calls?
12 A. Numerous calls throughout the years. A lot of
13 things happen.
14 Q. Busy place?
15 A. Sometimes.
16 Q. Was anybody else in the lobby?
17 A. I believe one of the employees from the -- from
18 the hotel. I'm not really sure if there were any other
19 patrons there or not.
20 Q. Do you remember the name of the employee
21 from the hotel?
22 A. Not off the top of my head.
23 Q. By the way, did you talk to anybody
24 about this case before you came down here today other
25 than your lawyer?

Page 11

1 A. No.
2 Q. Did you talk to Officer Lee?
3 A. No.
4 Q. Or Detective Tapia?
5 A. No. I just came back from vacation.
6 Q. You did?
7 A. Yes.
8 Q. What about in general? Have you talked
9 to many people about this case?
10 A. My girlfriend.
11 Q. When did you talk to her?
12 A. When I heard about it.
13 Q. When did you hear about it?
14 A. When -- first the news. When it hit the news.
15 Q. Did you learn about it from the news or
16 from somebody in the department?
17 A. From the news.
18 Q. Did you talk to anybody else other than
19 your girlfriend about the case after you -- or your
20 lawyer after hearing about it from the news?
21 A. Well, we had that whole pow wow with the lawyers
22 and everybody. So that's everybody else that was
23 involved.
24 Q. Who was in -- without telling me what
25 was said can you tell me who was in the pow wow?

Page 12

1 A. The director. You had -- who was there?
2 MR. RUBENSTEIN: I can't answer.
3 A. Director. Detective Tapia was there. I would
4 assume -- I would assume everybody on the case. I'm
5 not sure. I remember the lawyers and the director was
6 there and Detective Tapia was there.
7 Q. And by lawyer you mean Frederic
8 Rubenstein?
9 A. And his assistant.
10 Q. Any other -- was the mayor there?
11 A. No.
12 Q. Any council member or town manager,
13 anybody like that?
14 A. No.
15 Q. Who is the town manager?
16 A. No idea.
17 MR. RUBENSTEIN: At which point in time?
18 MR. SEXTON: At that time.
19 A. Don't know.
20 Q. You say you found them in the lobby.
21 And do you recall what happened after you got there?
22 A. When I got to the lobby Officer Lee was with him,
23 with the male. And he had his driver's license. We
24 checked him.
25 Q. So the guy gave you -- who had the

Pages 9 to 12

Page 13

1 license when you arrived? Did you see Officer Lee
 2 already had it?
 3 A. I believe so. I believe he had it or I grabbed
 4 it off him, but I know Officer Lee checked the license.
 5 Q. Did Lee have to go back -- go to his car
 6 to do that?
 7 A. No. That was me.
 8 Q. Okay. So --
 9 A. Normally -- I'm not sure how he checked, ran the
 10 license, but he either checked the license through the
 11 radio or via telephone or headquarters.
 12 Q. Did Lee leave the lobby to do that?
 13 A. I don't believe so.
 14 Q. Okay. Did he step away from the male
 15 suspect?
 16 A. I don't recall.
 17 Q. What did you do while Lee was checking
 18 the license?
 19 A. Probably just standing there observing or talking
 20 to the manager.
 21 Q. Do you remember what happened next?
 22 A. I know that that license did not come back on
 23 file. So I know I took the license and went to my
 24 patrol car with the license. Plus, I have a book that
 25 identifies government licenses.

Page 15

1 said he's going to pay for the items it's our policy
 2 placed him under arrest. And since we didn't have good
 3 identification for the male we decided to place him
 4 under arrest.
 5 Q. For the shoplifting or --
 6 A. For shoplifting.
 7 Q. What were you going to arrest him for?
 8 A. Shoplifting.
 9 Q. Did he tell you why he was at the hotel?
 10 A. I believe he was there for the Hertz rental
 11 service.
 12 Q. Was he renting a vehicle or returning a
 13 vehicle? Do you know?
 14 A. I didn't get that far.
 15 Q. So did you communicate -- did you
 16 communicate to him -- you told him you were going to
 17 arrest him or what?
 18 A. Well, I told him place his hands behind his back.
 19 Q. Okay. What happened next?
 20 A. When he did that I saw a bag of marijuana.
 21 Q. Where did you see that?
 22 A. Don't recall. One of his pockets.
 23 Q. Then what happened?
 24 A. I went to put handcuffs on him.
 25 Q. Then what happened?

Page 14

1 Q. What do you mean?
 2 A. It's a book that has every single license from
 3 every state. So you compare it to see what's fake,
 4 what's not.
 5 Q. Okay. Were you able to make a
 6 determination?
 7 A. It appeared to be fake because it was missing
 8 certain things. I believe asterisks and zip code.
 9 Q. Okay. What happened next?
 10 A. Once I confirmed it was fake and I called
 11 Tennessee state police.
 12 Q. What did you learn?
 13 A. Confirmed it was fictitious.
 14 Q. What did you do then?
 15 A. I went back to the lobby.
 16 Q. By the way, how much time do you think
 17 this took you to check the book and then make the call
 18 to Tennessee?
 19 A. Some time.
 20 Q. 15 minutes, 10?
 21 A. I don't know.
 22 Q. What happened next when you went back to
 23 the lobby?
 24 A. He -- the male admitted to shoplifting already.
 25 I know he said he's going to pay for -- even though he

Page 16

1 A. He slipped away and ran off.
 2 Q. While you were doing this where was
 3 Lee?
 4 A. Next to me.
 5 Q. Then what happened?
 6 A. He ran out the back door.
 7 Q. Can you describe how he --
 8 A. He ran towards the back door. Believe his shoe
 9 fell off in the lobby. Not sure if he dropped his
 10 jacket behind. I don't recall. Ran outside the back
 11 door. Ran towards the front. Got into his vehicle.
 12 Q. What happened -- what were you and
 13 Officer Lee doing?
 14 A. Chasing him. We let headquarters know we were in
 15 foot pursuit.
 16 Q. Then what happened?
 17 A. Then he sat in his car for a short period of
 18 time. Not sure how long, how many minutes. We drew
 19 our weapons on him. Told him to get out. He pulled
 20 forward and hit my patrol car, the pillar. And Officer
 21 Lee had to jump out of the way. He then backed out and
 22 drove -- sped off.
 23 Q. Had backup arrived yet?
 24 A. No. Just myself and Officer Lee. Oh, I did have
 25 his license still in my back pocket.

Pages 13 to 16

Page 17

1 Q. What happened after he hit the pillar?
 2 A. He took off Route 9.
 3 Q. Okay.
 4 A. And we went to look for him.
 5 Q. Both cars?
 6 A. Yes.
 7 Q. Then what happened?
 8 A. There were multiple cars at that time looking for
 9 the vehicle. After a short time went back to Hampton
 10 Inn.
 11 Q. Okay. And what did you do at Hampton
 12 Inn?
 13 A. I began to preserve the scene. Ask for
 14 additional units.
 15 Q. People arrive?
 16 A. Yes.
 17 Q. Who arrived?
 18 A. I couldn't tell you who exactly, but I know
 19 Detective Brewer was there. Detective Quesada was
 20 there for a fact, but I can't recall who else was there
 21 without referring to my report.
 22 Q. Do you recall Detective Tapia? Tapia?
 23 A. Yes, I believe he was out there. Yes. Yes, he
 24 was there.
 25 Q. What do you remember about the securing

Page 18

1 of the scene?
 2 A. I remember there's an officer by the rear door
 3 for a hand print. I know the clerk. I'm not sure if
 4 that's the manager. But the stuff that dropped in the
 5 middle of the lobby he gathered it up and put it in the
 6 bag.
 7 Q. Did you talk to the detectives at all?
 8 A. Yes.
 9 Q. Do you remember what was said?
 10 A. Briefed them what happened. I told them that I
 11 had the driver's license. The name on the driver's
 12 license was not the individual, but the picture on the
 13 driver's license was the individual.
 14 Q. Do you remember anything else said?
 15 A. No.
 16 Q. Do you remember who you gave -- who you
 17 gave the driver's license to?
 18 A. I believe it says in my report. One of the
 19 detectives. I'm not sure which one.
 20 Q. I'll give you the report in a second.
 21 Just try to see what you remember. Did you review your
 22 report before you came down here today?
 23 A. Yes.
 24 Q. Oh, you did. Did you review anything
 25 else other than your report?

Page 19

1 A. Just these three reports down here which is my
 2 reports and Officer Lee's report, and my supplemental
 3 report.
 4 Q. Sorry. Your report?
 5 A. Officer Lee's report and my supplemental report.
 6 Q. Show you what's been premarked as
 7 Plaintiff's Double A. Do you recognize this?
 8 A. Yes, I do.
 9 Q. And what do you recognize it as?
 10 A. It's my report.
 11 (There is a recess.)
 12 Q. So I asked you if you recognize this
 13 report.
 14 A. Yes.
 15 Q. What is it?
 16 A. It's my report I wrote.
 17 Q. And did you write just one report or are
 18 there any other reports?
 19 A. There are two reports I believe.
 20 Q. I show you what we marked as double A.
 21 Is this your first report?
 22 A. Yes.
 23 Q. And when was this report made?
 24 A. January 26, 2019.
 25 Q. So it was made the same day as the

Page 20

1 incident?
 2 A. Yes.
 3 Q. Then I'm showing you what's previously
 4 marked as Plaintiff's Exhibit R.
 5 MR. RUBENSTEIN: I'm just going to show
 6 it to him.
 7 MR. SEXTON: Yeah.
 8 Q. And is this your second report?
 9 A. Yes.
 10 Q. And when did you make this report?
 11 A. I believe the date and time says January 3rd --
 12 January 30, 2019.
 13 Q. That's the last page date/time on the
 14 report, 1/30/2019?
 15 A. This is what the report says. Yes.
 16 Q. What do you know about -- by the way,
 17 were you -- did you ever receive any discipline for the
 18 events surrounding with this matter?
 19 A. No.
 20 Q. Did you ever receive and including any
 21 discipline that would include a verbal warning or
 22 reprimand? No?
 23 A. No.
 24 Q. Written reprimand?
 25 A. No.

Pages 17 to 20

Page 21

1 Q. No. Did you ever receive any training
2 regarding it?
3 A. No.
4 Q. Were you ever offered to go to any
5 training regarding it?
6 A. As far as facial recognition regarding --
7 Q. The way this matter was handled.
8 A. No.
9 Q. What -- at the time of this incident in
10 January, February, 2019, up to that time what had your
11 experience with -- prior to this incident, rather, what
12 had your experience been with facial recognition
13 technology?
14 A. Nothing.
15 Q. Had you ever received any training
16 regarding the use of facial recognition technology?
17 A. No.
18 Q. Had you been aware of any controversies
19 regarding the use of facial recognition technology?
20 A. No.
21 Q. Were you aware that facial recognition
22 technology had been held to be racially biased?
23 MR. RUBENSTEIN: Objection as to form.
24 You can answer. You can answer the question.
25 A. No.

Page 22

1 Q. Were you aware that the ACLU had filed a
2 class action lawsuit against the State of New Jersey to
3 stop the use of certain facial recognition
4 technologies?
5 A. No.
6 Q. Were you aware that around this time the
7 Attorney General of New Jersey issued a moratorium on
8 the use of facial recognition technology?
9 A. No.
10 MR. RUBENSTEIN: Objection as to form.
11 Q. When Officer Tapia told you he had used
12 facial recognition technology in this case were you
13 surprised?
14 MR. RUBENSTEIN: Objection as to form.
15 You can answer.
16 A. No.
17 Q. Were you confused?
18 A. No.
19 Q. Because you said you had -- from your
20 description it's almost as if you had never heard of it
21 before. And yet, somebody told you that they were
22 using it to resolve a case and now you're telling me
23 you had no surprise about it.
24 A. I never said I didn't hear about it. I said on
25 patrol we don't have those tools.

Page 23

1 Q. Okay. Well, then tell me what you had
2 heard about it. I didn't ask you had you used it. Any
3 knowledge at all from any source.
4 A. What I see on TV.
5 Q. Okay. What do you see on TV?
6 A. NCIC.
7 Q. I don't watch TV. So tell me about
8 NCIC. What is NCIC?
9 A. It's a show.
10 Q. What does that stand for?
11 A. No idea.
12 Q. It's about some kind detective work?
13 A. It's a police show.
14 Q. Where's the police? For what city?
15 A. I don't watch that much of it, but I think
16 military.
17 Q. Military police?
18 A. Yes. Something like that probably.
19 Q. Were you military police?
20 A. No.
21 Q. You were?
22 A. I was marine.
23 Q. So what do they do with facial
24 recognition technology in NCIC?
25 A. I guess they get a face and compare to images in

Page 24

1 the system.
2 Q. And is it used often in those -- in that
3 show?
4 MR. RUBENSTEIN: Objection as to form.
5 Go ahead. You an answer.
6 A. I don't know.
7 Q. Do you remember any particular --
8 A. I watched a few episodes only so I can't tell you
9 who the characters are.
10 Q. Did you see it in any other shows?
11 A. Quite possibly.
12 Q. Do you remember how it was used?
13 A. I mean the word facial recognition is quite
14 self-explanatory. You know, I'm not sure the science
15 behind it if that's what you're asking or the technical
16 skills needed to acquire facial recognition.
17 Q. I guess we all have it on our phones
18 now; right? Do you have a smart phone?
19 MR. RUBENSTEIN: Objection as to form.
20 Go ahead.
21 A. I would assume. I don't use it.
22 MR. RUBENSTEIN: Don't assume. You're
23 not supposed to guess.
24 Q. You don't lock your phone by your facial
25 -- face password?

Pages 21 to 24

Page 25

1 A. Fingerprint.
 2 Q. So when Detective Tapia told you that he
 3 had found the guy with facial recognition technology
 4 did you think like, oh, cool, that's just like NCIC?
 5 A. No.
 6 Q. What did you think?
 7 A. I think with the totality of the circumstances of
 8 the results from the facial recognition we confirmed
 9 that it looked like the suspect that was dealt with at
 10 the Hampton Inn. Was that it was a good tool to
 11 assist.
 12 Q. So that phrase "good tool to assist", is
 13 that a term of art from the detective work and
 14 policing?
 15 A. Can you rephrase?
 16 Q. Is that another phrase -- is that phrase
 17 equivalent to an investigative lead?
 18 A. Still don't understand.
 19 Q. Do you know the term investigative lead?
 20 A. Yes.
 21 Q. What do you understand that to mean?
 22 A. During investigation you get a good lead and you
 23 then follow it up. And --
 24 Q. Like, are you aware that there are
 25 certain evidence that's never admissible in court?

Page 26

1 A. Yes.
 2 Q. And can you name some evidence that's
 3 never admissible in court?
 4 A. No.
 5 Q. If I told you polygraph results are
 6 never admissible in court would that refresh your
 7 recollection?
 8 A. Yes.
 9 Q. And you know the reason that polygraph
 10 results are never admissible in court is because
 11 they're found to be inherently unreliable; correct?
 12 A. I guess so. No guessing. I don't know.
 13 Q. Fingerprints are admissible; correct?
 14 Or are fingerprints admissible?
 15 A. I believe so.
 16 Q. And DNA?
 17 A. Yes.
 18 Q. Can you think of other evidence that's
 19 also admissible?
 20 MR. RUBENSTEIN: You want him to give
 21 you a laundry list?
 22 A. Statements.
 23 Q. By the way, have you testified in
 24 criminal court often?
 25 A. No.

Page 27

1 Q. No. Ever?
 2 A. I believe once.
 3 Q. What kind of a case was that?
 4 A. Person break into cars.
 5 Q. So you described that you thought that
 6 the facial recognition hit was a, quote, good tool to
 7 assist. Did you have any impression of the totality of
 8 the case of what evidence there was to help find the
 9 person who was the actual actor?
 10 A. Can you repeat that question one more time?
 11 MR. SEXTON: Can you read that back?
 12 (The pending question is read back.)
 13 A. No, I didn't know what the detective bureau had.
 14 Q. You didn't have any idea what they had?
 15 A. I knew they had certain prints, but I didn't
 16 know --
 17 Q. They had prints. How do you know they
 18 had prints?
 19 A. Because they processed the scene.
 20 Q. You saw them taking prints?
 21 A. Well, I saw them guarding the door for prints.
 22 So --
 23 Q. What do you mean "guarding the door?"
 24 A. We wanted to preserve the scene.
 25 Q. I think you also mention -- didn't you

Page 28

1 mention a sneaker?
 2 A. Yes.
 3 Q. So you knew they had the sneaker; right?
 4 A. Yes.
 5 Q. You thought there might have been a
 6 jacket?
 7 A. Yeah, I think.
 8 Q. Not sure?
 9 A. Not sure.
 10 Q. Let me see. On the second page there's
 11 driver's license. You see the list?
 12 A. Yes.
 13 Q. Cigars, pot, marijuana grinder, SIM
 14 card, Dunkin' Donuts receipt. Did you look at that
 15 Dunkin' Donuts receipt?
 16 A. I'm sure I did.
 17 Q. Do you remember where that came back
 18 from?
 19 A. No.
 20 Q. If I told you it came back from the
 21 Dunkin' Donuts in the Bronx would that trigger your
 22 memory?
 23 A. Yes.
 24 Q. So you said that you characterize the
 25 hit as a good tool to assist. But in your report, P-R,

Pages 25 to 28

Page 29

1 you say -- the narrative relates that Tapia advised
2 you. Then you say, "As a result, I signed the
3 complaint for the following charges." So were you --
4 am I correct in understanding that you signed the
5 complaint based solely on the facial recognition hit as
6 reported to you by Tapia?

7 MR. RUBENSTEIN: Objection as to form.
8 You can answer.

9 A. No.

10 Q. What other basis did you have to sign
11 that Warrant of Probable Cause against Nijeer Parks?

12 A. I saw the suspect on scene. So I knew what he
13 looked like. The facial recognition, that hit that
14 came back provided an image that looked like the
15 suspect that I had.

16 Q. Your report doesn't note that you saw
17 the image from -- that Tapia had gotten, does it?

18 A. It does not specifically say that I looked.

19 Q. Is there anything that even possibly
20 suggests that you looked?

21 A. The suspect was identified as Nijeer Parks.

22 Q. That sentence follows, "On January 27th,
23 he", that's the [inaudible], "received notification
24 from Investigator Shamos Lyons, Rockland County
25 Sheriff's Department Intelligence Center and Sergeant

Page 30

1 Dey, Palisades Interstate Parkway Police", close
2 parens, "that they had a high profile comparison to the
3 picture of a fraudulent Tennessee driver's license.
4 The suspect was identified as Nijeer Parks." I read
5 that as saying that Lyons and Dey identified the
6 subject as Parks. Is there any basis for me -- for you
7 to tell me that I'm misreading that?

8 A. No, sir. Just bad report writing.

9 Q. You've never met Nijeer Parks; correct?

10 A. No.

11 Q. So it's impossible for you to identify
12 anyone as Nijeer Parks, isn't it, since you've never
13 met him?

14 A. Physically, yes.

15 Q. Isn't it true that the name Nijeer Parks
16 became associated with the suspect based upon the
17 report of Sergeant Dey and Investigator Lyons?

18 A. No. It was a totality of everything. The image
19 that was shown to me looked like the suspect that I had
20 at the Hampton Inn.

21 Q. And you wrote this report the day --
22 when did you write this report in relation to the time
23 when Detective Tapia told you about the hit?

24 A. I don't recall the timeframe of when the report
25 was written.

Page 31

1 Q. Is it your policy to write reports soon
2 after the events that you're recounting?

3 A. We normally do it by the end of the tour.

4 Q. Showing you Exhibit BB. This is a
5 13-page document. Do you recognize it?

6 A. Yes.

7 Q. What do you recognize it as?

8 A. It is my complaint.

9 Q. And the last -- page 11 and 12 are your
10 Affidavit of Probable Cause?

11 A. Yes.

12 Q. Is there anyplace in this Affidavit of
13 Probable Cause where you report that you independently
14 verified the picture provided by ROIC as being the
15 person you had interacted with at the Hampton Inn?

16 A. No.

17 Q. Were you aware that the facial
18 recognition tech altered the picture by changing pixels
19 before you made the search?

20 A. No.

21 Q. If you knew that would that cause you to
22 doubt the accuracy of the hit?

23 MR. RUBENSTEIN: Objection as to form.

24 If you can answer.

25 A. I would say yes.

Page 32

1 Q. Do you know that -- did you know
2 anything about the identification made by Officer Lee
3 of the suspect?

4 A. No.

5 Q. By the way, do you have any training in
6 photo arrays?

7 A. Just SOP. Standard policies.

8 Q. What's the SOP for a photo array?

9 A. I know it has to be approved by the prosecutor.
10 You need six photographs.

11 Q. Is there a little speech you have to
12 give?

13 A. I don't give them so -- I assume, but I don't
14 want to assume.

15 Q. Like, do you have a little card for
16 Miranda Rights, stuff like that?

17 A. No. We do have them, but I don't have them.

18 Q. Just have them memorized?

19 A. No.

20 Q. What do you do then?

21 A. I don't.

22 Q. You don't do Miranda Rights?

23 A. We don't question. To my knowledge when you
24 question a criminal. And then you Google Miranda
25 Rights on NJ Courts.

Pages 29 to 32

Page 33

1 Q. What about lineups? Do you know
2 anything about lineups?
3 A. No.
4 Q. Not even from TV?
5 A. No.
6 Q. They don't do lineups on NCIC?
7 A. No.
8 Q. Do you know -- so after the complaint --
9 after you sent out the warrant and complaint and they
10 brought Nijeer Parks in that they called Officer Lee in
11 on his day off to make an ID. Did you know about that?
12 A. I was off.
13 Q. So Officer -- Lieutenant Ng, N-G. How
14 do you say his name?
15 A. Ng.
16 Q. Lieutenant Ng and some other lieutenant,
17 sergeant, walked him, brought him down and showed --
18 told Lee that he was in the holding center. And Lee
19 saw him sitting on the bench with his hands handcuffed
20 to the bar. Does that sound right?
21 A. I wasn't there.
22 Q. Can you picture? You know the bench?
23 You know the bar?
24 A. Yes. All depends which bar, but I know the bars.
25 There's multiple bars.

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1 Q. And from what you know of policing and
2 investigations, do you think that that was an overly
3 suggestive presentation of the suspect to Officer Lee?
4 MR. RUBENSTEIN: Objection as to form.
5 You can answer.
6 A. What do you mean?
7 Q. Well, you know about photo arrays. And
8 there's rules so that they're not overly suggestive --
9 A. Yes.
10 Q. -- so that they have some value. And if
11 you showed a suspect one person in handcuffs that might
12 be suggestive; right?
13 A. I mean if it's out in the public on a street, but
14 the environment back there everybody's in handcuffs.
15 Q. But there wasn't a -- his report makes
16 no mention of anybody else in handcuffs.
17 A. I have no idea.
18 Q. Actually, his report doesn't even
19 mention handcuffs. It just mentions seeing him sitting
20 on the bench.
21 A. I wasn't there.
22 Q. You mention in your description of the
23 suspect that he was tall. Do you know that Nijeer
24 Parks was five, seven?
25 A. No.

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1 MR. RUBENSTEIN: Objection as to form.
2 You can answer the question.
3 A. No.
4 Q. You would agree that five, seven is not
5 tall for a man?
6 MR. RUBENSTEIN: Objection as to form.
7 You could answer it.
8 A. Taller than me, no. Taller than somebody else,
9 yes.
10 Q. But five, seven in our -- is an average
11 height. What would you guess that the average height
12 in America today?
13 MR. RUBENSTEIN: I'm going to object as
14 to form. If he could possibly answer that question.
15 Q. You have no idea? If I told you the
16 average height is five, ten would that sound right to
17 you?
18 MR. RUBENSTEIN: Objection as to form.
19 Q. I'm pretty sure that's what it is.
20 Five, nine. So if the average height is five, nine,
21 you describe the suspect as being tall. So tall is
22 taller than average; correct?
23 MR. RUBENSTEIN: Objection as to form.
24 You can answer it if you can.
25 A. I guess depends in whose eyes.

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1 Q. You recovered a sneaker of the suspect.
2 A sneaker was recovered, you reported being recovered;
3 correct?
4 A. Yes.
5 Q. And you had seen it on the suspect's
6 feet and you noted that it fell off while he was
7 running; correct?
8 A. Yes.
9 Q. There's a picture taken by Detective
10 Quesada that shows the sneaker about -- it's next to a
11 ruler that's 12 inches long. You would agree that the
12 fact that Nijeer Parks' foot is five, eight or five,
13 nine would be indicative of his innocence?
14 MR. RUBENSTEIN: Once again I'm
15 objecting to the form. And you said that his -- he was
16 5-foot 8 and that's the size of his foot.
17 MR. SEXTON: Did I?
18 MR. RUBENSTEIN: Yes.
19 Q. Size eight. Size eight and a half I
20 believe.
21 MR. RUBENSTEIN: And I'm objecting to
22 the form of the question, but you could answer it if
23 you could.
24 A. I'm not a shoe expert.
25 Q. You need to be a shoe expert to tell the

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1 difference between somebody who's foot is size eight
 2 and somebody who's foot is size 12?
 3 MR. RUBENSTEIN: Objection as to form.
 4 You can answer. Go ahead.
 5 A. I mean if I put my foot up here would you be able
 6 to tell what size shoe I am?
 7 Q. Probably could guess.
 8 MR. RUBENSTEIN: We're not here to
 9 guess, so ask the next question.
 10 Q. Anyway, you didn't have to guess because
 11 you had possession of the shoe.
 12 A. Yes, we did.
 13 Q. Did you view this as a serious offense
 14 that was being investigated and prosecuted?
 15 A. Every offense is a serious offense.
 16 Q. There's no difference in gravity between
 17 serial murder and shoplifting?
 18 A. Different degrees.
 19 Q. Of seriousness. I mean the law has
 20 gradations, the whole criminal code; right?
 21 A. Yes.
 22 Q. So did you view this as a serious crime?
 23 A. Again, every --
 24 MR. RUBENSTEIN: Just note my objection
 25 because he was charged with -- they were investigating

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1 and he was charged with multiple crimes. So which
 2 crime are you referring to? Shoplifting? Which crime?
 3 Q. You're the charging officer. So did you
 4 view this matter as a serious matter? And if so, which
 5 was serious?
 6 A. I'm going to stick to my answer. Every -- every
 7 crime is serious.
 8 Q. Well, isn't generally assault on a
 9 police officer one of the most serious of offenses
 10 there can be? New York there's only one murder one.
 11 It's an attack on a -- a murder of a police officer,
 12 for instance.
 13 A. Personal opinion I think sexual assault is the
 14 most serious offense or murdering or crimes against
 15 women or little kids. You know, personal opinions.
 16 Q. So there are certain categories of
 17 victims that make the elevated crime?
 18 A. No, I didn't say that.
 19 Q. Well, you have children. Children are
 20 one category of victims; women are another category;
 21 law enforcement are another category?
 22 A. No.
 23 Q. No. Now, in Exhibit R you said that in
 24 the last sentence in your narrative, "After signing the
 25 warrant, Detective Tapia, Detective Goines and I drove

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1 to Paterson PD to arrest Parks." Did you go -- you
 2 went in one vehicle?
 3 A. Yes.
 4 Q. And it was your vehicle? You drove?
 5 A. No.
 6 Q. Okay. Who drove?
 7 A. I believe it was Detective Goines.
 8 Q. And did you do your Affidavit of
 9 Probable Cause and your complaint at the same time
 10 together with Tapia? Tapia?
 11 A. I did mine downstairs in the report room.
 12 Q. Do you know if you did yours before,
 13 after or at the same that time Tapia was doing his?
 14 A. I don't know.
 15 (There is a recess.)
 16 Q. I think the question was did you do your
 17 warrant and affidavit at the same time or after Tapia
 18 and you said you didn't know. So when did you do yours
 19 in relation to when Detective Tapia told you about the
 20 hit?
 21 A. Do you have Detective Tapia's warrant?
 22 Q. I do.
 23 MR. RUBENSTEIN: But just to be clear,
 24 he asked for his complaint, he didn't ask for just the
 25 Affidavit of Probable Cause.

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1 Q. Do you need the full complaint or can
 2 you tell from the affidavit?
 3 A. Both.
 4 MR. RUBENSTEIN: Parks 1 and it goes
 5 through Parks 22.
 6 MR. SEXTON: You talking about your
 7 Bates stamps?
 8 MR. RUBENSTEIN: Yes.
 9 (Plaintiff's Exhibit P-DD, Complaint and
 10 Affidavit of Probable Cause, was received and marked
 11 for identification.)
 12 Q. Does that help you?
 13 A. Repeat the question.
 14 Q. Did you do it before, at the same time
 15 or after?
 16 A. According to this I did it after.
 17 Q. How long after?
 18 A. I don't know.
 19 Q. How can you tell? Is it the numbering?
 20 A. The numbering.
 21 Q. Okay. So yours is 1225 --
 22 A. Mine's 158. His is 156.
 23 Q. So there's one in between you. Do you
 24 remember -- after Detective Tapia told you about the
 25 hit, how long after that did you do the report --

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1 rather the warrant complaint and affidavit?
 2 A. I do not know the exact specific time.
 3 Q. Estimate?
 4 A. I cannot give you that.
 5 Q. You went down -- your report says after
 6 signing the reports you guys drove to Paterson; right?
 7 A. Yes.
 8 Q. Am I over reading this, but the way I
 9 read it it makes it sound like you were -- this is all
 10 sort of happening at the same time. After signing the
 11 warrant -- let me say warrant's singular. "Tapia,
 12 Goines and I drove to Paterson." So it sounds like
 13 this is all kind of happening together at the same
 14 time.
 15 A. I believe so.
 16 Q. So you guys were being efficient?
 17 A. Yes.
 18 Q. After driving to Paterson to try to
 19 serve him and arrest him did you have any other
 20 involvement with this matter?
 21 A. No.
 22 Q. Did you hear anything else about this
 23 matter through the grapevine?
 24 A. Besides from what I told you, no.
 25 Q. So up until you saw it in the news

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1 nothing after that day when you tried to arrest him?
 2 A. No. Nothing.
 3 Q. So do you know if you were working the
 4 day that Nijeer came down to headquarters which was
 5 Tuesday, February 5, 2018?
 6 A. I don't think I was.
 7 Q. Why don't you think you were?
 8 A. Logically speaking, if I was they would have
 9 called me down there.
 10 Q. Officer Lee lives in town?
 11 A. I don't know where Officer Lee lives.
 12 Q. You live in town?
 13 A. During this time, no.
 14 Q. No, you didn't. Today?
 15 A. I live in town now, but I didn't live then.
 16 Q. Where did you live then?
 17 A. Middletown.
 18 Q. When you did your 90-day rotation in the
 19 detective bureau did you -- strike that.
 20 Have you ever had at anytime involvement
 21 in sending fingerprints to the Holmdel lab or any other
 22 lab?
 23 A. No.
 24 Q. Do you have any idea how long it takes
 25 to get a report on fingerprints?

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1 A. No.
 2 Q. How about DNA?
 3 A. No.
 4 Q. You said you were never a defendant in a
 5 lawsuit?
 6 A. No.
 7 Q. You did not say that? Were you a
 8 defendant in a lawsuit?
 9 A. No. I think 18 I rear ended somebody.
 10 Q. Wasn't there a excessive force complaint
 11 at the mall, Ayler, Harris and Gordan v. Woodbridge?
 12 A. I wasn't even there. I was their off duty. I
 13 just stood by.
 14 Q. But you were named as a defendant,
 15 weren't you?
 16 A. I mean the mayor was named defendant for this
 17 trial and he wasn't there.
 18 Q. What do you remember about that case?
 19 A. This case?
 20 Q. No. The mall case.
 21 A. Mall case. I was shopping. I saw people chasing
 22 somebody. I walked out with my goods. I saw the
 23 Officer Benigno standing there with three females on
 24 the ground. I stood by there off to the side to make
 25 sure he was okay. Other cops came and I left.

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1 Q. But now having raised this matter, do
 2 you remember being named as a defendant?
 3 A. Yes.
 4 Q. Okay. Are you aware that that was
 5 settled for a payout to the plaintiffs?
 6 A. Yes.
 7 Q. Did you receive any discipline as a
 8 result of that?
 9 A. No.
 10 Q. Do you know if Benigno did?
 11 A. I don't know.
 12 Q. Were you required to testify at a
 13 disciplinary hearing either in the department or at
 14 OAL?
 15 A. No.
 16 Q. Did IA ever interview you regarding the
 17 matter?
 18 A. I don't know.
 19 Q. Have you ever been interviewed by IA?
 20 A. Yes.
 21 Q. When have you been interviewed by IA?
 22 A. I don't know exactly, but when I got hired I got
 23 interviewed by them.
 24 Q. As a part of the hiring process?
 25 A. Yes.

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1 Q. Any other time since then?

2 A. There may have been other times, but I can't

3 recall. But nothing -- no discipline was ever

4 occurred.

5 Q. Do you remember who else was named in

6 that lawsuit besides you and Benigno?

7 A. No.

8 Q. Benigno is retired, isn't he?

9 A. Yes.

10 Q. Do you remember that there was some

11 security guards from Woodbridge Mall named?

12 A. I don't know.

13 Q. Do you remember any of the process in

14 that case? Were you deposed in that case?

15 A. No.

16 Q. Like this?

17 A. Like I said, my involvement in that was minimal.

18 Q. Did you observe any misconduct by

19 Benigno at that time?

20 A. No. Like I said, my only involvement was they

21 were out there and they were on the ground.

22 Q. When you were writing out your complaint

23 did you make -- did you talk to anybody at the

24 prosecutor's office?

25 A. Yes. Before we even write anything out we always

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1 summons. He'll tell me whether or not there's a

2 warrant or summons or no warrant at all.

3 Q. What's the difference between a warrant

4 and a summons?

5 A. Summons they don't get arrested unless it's like

6 a domestic violence.

7 Q. And so there's a complaint with both,

8 but one's a complaint -- a warrant and a complaint,

9 one's a summons and complaint?

10 A. Yes.

11 Q. And do you know why this was a warrant

12 and complaint and not a summons and complaint?

13 A. I would assume the severity of the incident.

14 Q. And then you say, "It was signed by the

15 Honorable Judge David Stahl." Did you have any

16 communications with Stahl?

17 A. I don't remember.

18 Q. Would you agree that your report

19 suggests that you did not have any communications with

20 Judge Stahl?

21 MR. RUBENSTEIN: Objection as to form.

22 Q. Reading your report it says, "Nastasi

23 approved the warrant and it was signed by the Honorable

24 Judge David Stahl on 1/30/19." Is there anything there

25 suggesting that you communicated or spoke or were

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1 contact the prosecutor and we give -- we tell them what

2 we have who as at that time I believe Peter Nastasi.

3 And he tells us whether or not we have enough to sign

4 the complaint.

5 Q. Do you write any memos or emails or

6 anything memorializing your discussion with the

7 prosecutor?

8 A. In reports we say spoke to prosecutor --

9 assistant prosecutor, whoever we spoke with.

10 Q. Do you ever do this by email?

11 A. No. By supplemental report number three.

12 Q. Your report says, "Peter Nastasi

13 approved the warrant."

14 A. Yes.

15 Q. Can you tell me with as much detail as

16 you can recall how he approved the warrant? What was

17 presented to him?

18 A. Well, it's common practice, well, for me whenever

19 I call the assistant prosecutor I tell them everything,

20 all the information I have, all the facts. And he

21 advised me -- he's like, all right, you have enough for

22 this or that. So.

23 Q. Is this before or after you've drafted

24 it?

25 A. This is before. I don't now if it's a warrant or

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1 questioned by Judge Stahl?

2 A. Yes. When I -- if I write that down sometimes I

3 talk to the judges. I don't specifically say I talked

4 to Judge So and So. You know, so a good chance I

5 talked to him, but possibly it's changed. Sometimes we

6 call the judges; sometimes we don't. I don't recall

7 what the policy was at this time.

8 Q. Actually, when you look at your report

9 closely it seems like you signed the complaint and

10 drafted it up before you talked to Nastasi. Says, "I

11 signed the complaint charges", dot, dot, dot. And then

12 with the number. Then you say period, "AP Peter

13 Nastasi approved the warrant." So your report makes it

14 sound like you drafted it and submitted it and he

15 approved it after the fact.

16 A. I understand, but it's not possible because he

17 has to tell me if it's a warrant or summons. You can't

18 -- you know. And --

19 Q. Could it be that you had a good sense

20 that this was going to be a warrant and complaint not a

21 summons and complaint and had that approved by him

22 after?

23 A. Possible, yes. But again, I don't recall which

24 came first. I can't -- you know, I don't know that day

25 if I drafted it first or -- it's three years ago.

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1 Q. Did we talk about S, Exhibit S?
 2 A. No.
 3 Q. Have you ever seen this form before?
 4 A. No.
 5 Q. Do you know what the ROIC is?
 6 A. State Police Intelligence Regional Office
 7 something. Intelligence Center I assume. I'm
 8 guessing.
 9 MR. RUBENSTEIN: Don't guess.
 10 A. No, I know its basis. I'm not sure what it
 11 stands for.
 12 Q. So it's some kind of intelligence unit
 13 with the state police?
 14 A. Yes.
 15 Q. So their form says -- this is in big
 16 letters -- "Investigative lead, not probable cause to
 17 make an arrest regarding facial recognition request
 18 form." Do you have an understanding of what was meant
 19 by that?
 20 A. I've never seen that form.
 21 Q. Knowing that, do you have any
 22 understanding what that would mean on a form issued by
 23 the ROIC?
 24 A. Yes.
 25 Q. Okay. What is that understanding?

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1 A. What's the exact wording?
 2 Q. "Investigative lead, not probable cause
 3 to make an arrest."
 4 A. That it's just a lead.
 5 MR. SEXTON: That's all I have. I'm
 6 sure your attorney has some.
 7
 8 CROSS EXAMINATION BY MR. RUBENSTEIN:
 9 Q. So Officer Lyszk, you went out -- you
 10 were dispatched to the scene of the Hampton Inn on
 11 January 26, 2019?
 12 A. Yes.
 13 Q. And when you arrived you went to the
 14 hotel lobby and Officer Lee was already there?
 15 A. Yes.
 16 Q. And was Officer Lee dealing with the
 17 person who they believed had shoplifted at this point?
 18 A. Yes.
 19 Q. After -- what you described to us is
 20 after the events that occurred at the Hampton Inn you
 21 were at some later point dealing with Detective Tapia.
 22 And did he show you a photograph that was obtained
 23 through the use of facial recognition software?
 24 A. Yes.
 25 Q. When you saw the photograph did you

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1 identify the person in that photograph as being the
 2 same person who you recognized from being at the scene
 3 of the incident on January 26, 2019?
 4 A. Yes.
 5 Q. And were you informed that that person
 6 in the photograph that was obtained through facial
 7 recognition was of Nijeer Parks?
 8 A. Yes.
 9 Q. Was it after you confirmed that it was
 10 Nijeer Parks to Detective Tapia that you communicated
 11 with Assistant Prosecutor Nastasi about filing a
 12 complaint against that individual?
 13 A. Yes.
 14 Q. And did Assistance Prosecutor Nastasi
 15 give you the go ahead to prepare the complaint and have
 16 him review it before you submitted it to the judge?
 17 A. Yes.
 18 Q. So your Affidavit of Probable Cause is
 19 written in document BB. This whole document was
 20 submitted to Assistant Prosecutor Nastasi?
 21 A. Yes.
 22 Q. And for lack of a better term, he gave
 23 it his blessing to submit to the judge for his approval
 24 for issuance of the complaint?
 25 A. Yes.

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1 Q. Is there anything in your Affidavit of
 2 Probable Cause that is not true?
 3 A. No.
 4 Q. Are you certain that you communicated
 5 with Detective Tapia that you saw the photograph taken
 6 -- obtained through facial recognition and that you
 7 acknowledge that that is the same person that you saw
 8 at the Hampton Inn on January 26, 2019?
 9 A. Yes.
 10 Q. After Assistant Prosecutor Nastasi gave
 11 you the okay after he reviewed the affidavit, after he
 12 reviewed the complaint, did you submit the complaint to
 13 Judge Stahl?
 14 A. Yes.
 15 Q. Now, back when this was done in 2019 was
 16 it done where you had to hand it to the judge actually
 17 or was it by electronic where you submit it to the
 18 judge?
 19 A. I believe it was electronic.
 20 Q. Okay. Do you recall if that's how you
 21 submitted it for review by Assistant Prosecutor
 22 Nastasi? Was it electronically that you hand it to
 23 him?
 24 A. Yes.
 25 Q. Was it electronically?

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Page 53

1 A. Yes.
 2 Q. And then you submitted it -- you
 3 submitted your complaint to Judge Stahl for review and
 4 ultimately his approval?
 5 A. Yes.
 6 Q. Did you in fact obtain Judge Stahl's
 7 approval for the issuance of the complaint?
 8 A. Yes.
 9 Q. And it was after Judge Stahl -- was it
 10 after Judge Stahl had agreed to sign off on the
 11 complaint warrant that you went out to -- with other
 12 two detectives you went out to Paterson to try to
 13 locate Mr. Parks?
 14 A. Yes.
 15 Q. And when you went out there that time
 16 you were not successful in locating him?
 17 A. That's correct.
 18 Q. After that date did you have any
 19 involvement in this case in terms of giving any
 20 testimony or having to identify anyone or anything like
 21 that?
 22 A. No.
 23 Q. So is it fair to say that your
 24 involvement ceased on the day that you went out to
 25 Paterson to try to locate Nijeer Parks but were

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1 unsuccessful in your attempt?
 2 A. Yes.
 3 Q. Now, your supplemental report you
 4 indicated is January 30th of 2019; is that correct?
 5 A. Yes.
 6 Q. And in the body of the report, the
 7 second -- the first full paragraph it states on the
 8 bottom the complaint number, "AP Nastasi approved the
 9 warrant and it was signed by Honorable David Stahl on
 10 1/30/19." Does it help you remember what date the
 11 judge signed it?
 12 A. Yes.
 13 Q. Okay. Was it the same date that you
 14 wrote this document?
 15 A. Yes.
 16 Q. Okay. And when you presented the matter
 17 to Assistant Prosecutor Nastasi did you indicate to him
 18 that you saw the photograph from facial recognition and
 19 it was the same person that you had recognized from the
 20 Hampton Inn?
 21 A. I believe so.
 22 Q. I don't have anything further. Counsel
 23 might have some follow-up.
 24
 25 REDIRECT EXAMINATION BY MR. SEXTON:

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1 Q. Where did Detective Tapia show you --
 2 strike that.
 3 You just testified that Detective Tapia
 4 showed you a picture he received from the facial
 5 recognition search; correct?
 6 A. Yes.
 7 Q. And do you know how was this picture
 8 presented to you? Was it in hard copy? Was it sent to
 9 you by email? Did you view it on one of his devices?
 10 A. I believe it was a hard copy.
 11 Q. And do you recall where you saw it?
 12 A. Either report room or detective bureau. I don't
 13 recall exactly.
 14 Q. Were you given an array of photos from
 15 which to identify the picture or just a photo?
 16 A. Just a photo.
 17 Q. Do you remember what the photo of the --
 18 can you describe the photo of the person?
 19 A. No.
 20 Q. You have no recollection?
 21 A. No.
 22 Q. Do you know if it was a family photo?
 23 A. I don't know. I don't remember. It's been
 24 sometime.
 25 Q. You don't remember if it was a school ID

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1 photo?
 2 A. I would just be making speculations if I answered
 3 that question.
 4 Q. You don't remember if it was a driver's
 5 license photo?
 6 A. No, I do not.
 7 Q. You never saw any of the surveillance
 8 footage; correct?
 9 A. No.
 10 Q. Do you know were you presented -- at the
 11 time you identified the photo that was presented to you
 12 as a result of the facial recognition search, were you
 13 also showed photographs of the driver's license,
 14 Tennessee driver's license photo?
 15 A. I don't know.
 16 Q. And why is there no mention in your
 17 report or your affidavit of being shown the results of
 18 the facial recognition search?
 19 A. I don't know.
 20 Q. And why is there no mention of this in
 21 the report or affidavits of Detective Tapia?
 22 MR. RUBENSTEIN: Objection as to form.
 23 You can answer.
 24 A. I would assume bad report writing.
 25 Q. If you look at your Affidavit of

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1 Probable Cause. It's BB, page 11 of 13. First line of
 2 your affidavit says, quote, "While investigating a
 3 shoplifting of \$39 worth of merchandise at the Hampton
 4 Inn, the hotel manager, Richard Traneco, advised us
 5 that Parks was the suspect." That's an incorrect
 6 statement, isn't it?
 7 A. That's bad report writing.
 8 Q. That's false, isn't it? Did Richard
 9 Traneco advise you that Parks was the suspect? Yes or
 10 no.
 11 A. No.
 12 Q. Okay. And indeed you rewrote the
 13 history concerning Parks' name that you got from the
 14 facial recognition search back into the investigation
 15 as if you had his name from the beginning, didn't you,
 16 starting with the narrative of the hotel -- of the
 17 hotel manager?
 18 A. This was done after we received the facial
 19 recognition. And normal practice that we do, once we
 20 identify a suspect we add a suspect's name in.
 21 Q. So that was a false report submitted to
 22 the prosecutor and to the judge; correct?
 23 MR. RUBENSTEIN: Objection as to form.
 24 Q. Because Tarneco did not identify the
 25 suspect as Parks; correct? He never uttered that word;

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1 correct?
 2 A. Tarneco never said.
 3 Q. By the way, when you went to Paterson
 4 you went to -- did you meet with Nijeer's grandmother?
 5 A. We met with somebody.
 6 Q. An older African American lady at the
 7 address where Nijeer lived?
 8 A. Yes.
 9 Q. Okay. And do you remember your
 10 conversation with her?
 11 A. No. I wasn't really speaking. I don't believe I
 12 was really speaking anything.
 13 Q. Who was doing the talking?
 14 A. One of the detectives.
 15 Q. Do you remember which one?
 16 A. No.
 17 Q. Do you remember what was said?
 18 A. No.
 19 Q. Were you within earshot?
 20 A. Yes.
 21 Q. Fair to say that Nijeer's grandmother
 22 was upset? Concerned?
 23 A. I would assume, yes.
 24 Q. She said she'd call him?
 25 A. I don't recall what she said.

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1 Q. Do you remember her giving -- calling
 2 him while you were there?
 3 A. I don't remember.
 4 Q. Do you know that all of these other
 5 eyewitnesses --
 6 MR. RUBENSTEIN: Which document are you
 7 referring to?
 8 Q. I'm looking at -- I think it's in your
 9 report, but I have in front of me Exhibit A which is
 10 Lee's report. And he indicates Kaley Higgins, white
 11 female mall witness, Kamisha Grant, a black female
 12 witness. Both lived in Woodbridge. And he also lists
 13 Richard Tarneco. Do you know why none of these persons
 14 were involved in the identification of Parks when he
 15 was brought in?
 16 MR. RUBENSTEIN: Objection as to form.
 17 You can answer.
 18 A. I wasn't working so I can't answer that.
 19 Q. If you were one of the detectives would
 20 you have called one of these eyewitnesses?
 21 MR. RUBENSTEIN: Objection as to form.
 22 Q. To identify the suspect?
 23 MR. RUBENSTEIN: Objection as to form.
 24 If you can answer it. It calls for speculation.
 25 A. It's what if's.

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1 Q. Well, you got the wrong guy here. What
 2 could you have done better?
 3 A. I wasn't working that day.
 4 Q. Had you been working what could have
 5 been done better?
 6 MR. RUBENSTEIN: Objection as to form.
 7 If you can answer.
 8 A. But I wasn't.
 9 Q. Were you aware of any urgency -- strike
 10 that.
 11 Are there certain times when it becomes
 12 time is of the essence to arrest somebody even when you
 13 don't have all your ducks lined up?
 14 MR. RUBENSTEIN: Objection as to form.
 15 Q. I don't know the answer. Maybe there is
 16 or isn't.
 17 A. Repeat that.
 18 Q. Are there some times where you go ahead
 19 and you have to arrest somebody as quickly as possible
 20 even if all the ducks aren't lined up in a row?
 21 A. No. You arrest somebody when you have probable
 22 cause.
 23 Q. What if you have fear of an emanant --
 24 if the person's eminently dangerous or something like
 25 that?

Pages 57 to 60

Page 61

1 A. I mean if there's no probable cause no probable
2 cause.
3 Q. Was there any urgency in this case?
4 A. Probable cause was developed.
5 Q. How was it developed?
6 A. We received a facial recognition hit. I also
7 confirmed that -- I confirmed that the person in the
8 facial recognition hit was the person that was at the
9 hotel, that looked like the person that was at the
10 hotel. And after approval from the prosecutor of what
11 I had, he told me probable cause has been developed and
12 signed the complaint.
13 Q. And the facial recognition hit was done
14 on an altered photo of the picture. You know that?
15 MR. RUBENSTEIN: Objection as to form.
16 Q. And you don't recall if you were given
17 comparison photos between the driver's license and the
18 facial recognition hit; correct?
19 A. I don't remember.
20 Q. And you know physically Nijeer Parks is
21 a small, slight man not a tall person as identified by
22 you?
23 MR. RUBENSTEIN: Objection to the form.
24 You can answer.
25 A. I never met him.

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1 Q. They didn't bother to call you in to ID
2 him?
3 MR. RUBENSTEIN: Objection as to form.
4 You can answer.
5 A. No.
6 Q. You know Officer Lee agreed with you
7 that he was tall, the suspect; right? You're aware of
8 that. It's in his report; correct?
9 A. If that's what his report says, yes.
10 Q. But Officer Lee only ID'd him when
11 sitting down. You can't really gauge a man's height
12 when he's seated. Rather difficult. Do you agree?
13 MR. RUBENSTEIN: Objection as to form.
14 You can answer.
15 A. Again, I wasn't there.
16 Q. Your understanding of probable cause,
17 what's that -- where did you derive that from?
18 MR. RUBENSTEIN: The generic definition
19 or this specific case? I just want to make sure he's
20 answering what you're asking.
21 Q. The term probable cause, your
22 understanding, where does that -- where do you derive
23 that from?
24 A. From the 2C.
25 Q. Referring to Title 2C of New Jersey

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1 Statutes?
2 A. Yes.
3 Q. Do you know which particular --
4 A. Definitions.
5 Q. Can you elaborate on that in any detail?
6 A. I mean I could look up the definition of it.
7 Q. Do you have a -- without looking it up
8 do you have an understanding of it?
9 A. I believe I do.
10 Q. Can you tell us what that is?
11 A. When you have probable cause you develop certain
12 facts. I couldn't tell you exact termage [phon] of it
13 they use, but you have to develop certain amount of
14 facts to -- in order to have enough to arrest somebody.
15 You can't just go arresting people.
16 Q. Doesn't it require evidence that will be
17 admissible at trial?
18 MR. RUBENSTEIN: Objection as to form.
19 Q. Do you know?
20 MR. RUBENSTEIN: If you can answer the
21 question go ahead.
22 A. I don't know for a fact.
23 Q. All right. Thank you, sir. I
24 appreciate your time.
25 THE COURT REPORTER: Ms. Lempka, will

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1 you be ordering a transcript?
2 MS. LEMPKA: Yes.
3
4 (The witness is excused.)
5 (The matter is adjourned at 3:07 P.M.)
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Pages 61 to 64

Page 65

1 CERTIFICATE

2
3 I, CARMEN WOLFE, a Certified Shorthand
4 Reporter and Notary Public of the State of New Jersey,
5 certify that the foregoing is a true and accurate
6 transcript of the deposition of ANDREW LYSZK, who was
7 first duly sworn by me.

8
9 I further certify that I am neither
10 attorney or counsel for, nor related to or employed by
11 any of the parties to the action in which the
12 deposition is taken and that I am not a relative or
13 employee of any attorney or counsel employed in this
14 case, nor am I financially interested in the action.

15
16
17
18 CARMEN WOLFE
19 CERTIFIED SHORTHAND REPORTER
20

21
22 Dated: September 6, 2022
23 Notary Expiration Date: November 10, 2026
24
25

Page 65

EXHIBIT “D”

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CIVIL ACTION NO. 21-04021-(JXN)-(LDW)

NDEER PARKS,
vs.
JOHN E. McCORMACK, MAYOR OF WOODBRIDGE, in his
personal and official capacity, ROBERT HUBNER,
DIRECTOR OF THE WOODBRIDGE POLICE, in his personal
and official capacity, CITY OF WOODBRIDGE POLICE
OFFICERS, ANDREW LYSZK and WOODBRIDGE POLICE
SGT. JOSEPH LICCIARDI, WOODBRIDGE POLICE OFFICERS,
JOHN AND JANE DOES 1-20, being as yet unknown
actors, MIDDLESEX DEPARTMENT OF CORRECTIONS, JOHN
AND JANE DOES 1-20, being unknown actors, MIDDLESEX
COUNTY PROSECUTOR, ACTING PROSECUTOR CHRISTOPHER
KUBERIET, in his personal and official capacity, and
ASSISTANT MIDDLESEX COUNTY PROSECUTOR, PETER NATASI,
and IDEMIA INC.'S being the maker of the facial
recognition software and ABC CORPORATION, being an
as yet unknown seller or servicer of the facial
recognition programs,

Defendants.

DEPOSITION OF

OFFICER FRANCIS LEE

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before LAURA P. REAM, a Certified
Court Reporter and Notary Public of the State of
New Jersey, held at the law offices of James P.
Nolan and Associates, 61 Green Street, Woodbridge,
New Jersey, on Friday, August 12, 2022, commencing
at 9:34 a.m.

HUDSON COURT REPORTING & VIDEO (732) 906-2078

1 APPEARANCES:

2

3 DANIEL W. SEXTON, ESQ., LLC
BY: DANIEL W. SEXTON, ESQUIRE
229 New Center Road
4 Hillsborough, NJ 08844
201-406-9960
5 Danielsextonesq@gmail.com
Representing the Defendant,
6 Middlesex Department of Corrections
7

8 DVORAK & ASSOCIATES
BY: GRACE LEMPKA, ESQUIRE
467 Middlesex Avenue
9 Metuchen, NJ 08840
732-317-0130
10 Glemпка@dvoraklegal.com
Representing the Defendant,
11 Middlesex Department of Corrections
12

13 LAW OFFICES OF JAMES P. NOLAN AND ASSOCIATES
BY: FREDERICK L. RUBENSTEIN, ESQUIRE
61 Green Street
14 Woodbridge, New Jersey 07095
732-636-3344
15 Frubenstein@jpnlaw.us
Representing the Defendant,
16 Township of Woodbridge
17
18 ALSO PRESENT:

19 SAMANTHA SALZONE, ESQUIRE
20 GARRY CLEMENTE, ESQUIRE
21
22
23
24
25

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Page 5

1 OFFICER FRANCIS LEE, L-E-E, sworn by the
 2 Notary Public, testified as follows:
 3 DIRECT EXAMINATION
 4 BY MR. SEXTON:
 5 Q. Good morning, Officer. My name is
 6 Dan Sexton. I represent the plaintiff.
 7 Have you had your deposition taken
 8 before?
 9 A. No.
 10 Q. Okay. So as you can see, there's a
 11 reporter taking everything we say, so it's
 12 important that we communicate verbally because she
 13 can't take down gestures or nods. So just keep
 14 that in mind.
 15 A. Okay.
 16 Q. If there's any question that I ask
 17 that you don't understand, I'll be happy to
 18 rephrase it. From time to time your attorney will
 19 interject with objections. Normally that's just
 20 for the record. If he instructs you not to
 21 answer, then he and I will work that out.
 22 Do you have any questions of me
 23 before we proceed?
 24 A. No.
 25 Q. Okay. When did you come on the job?

Page 6

1 A. 2010.
 2 Q. What's your date of birth?
 3 A. 10/17/1982.
 4 Q. And do you have a -- what was your
 5 last year of education?
 6 A. I have college, two years of college.
 7 Q. Okay. Was that Middlesex Community
 8 or...?
 9 A. Middlesex Community College, yes.
 10 Q. And is Woodbridge a Civil Service
 11 jurisdiction?
 12 A. Yes.
 13 Q. So you took a test to get on the list?
 14 A. Yes, sir.
 15 Q. So where did you go -- can you briefly
 16 describe your training when you came on the job?
 17 A. I went to Stamler Police Academy in Union.
 18 That's where -- my police academy training.
 19 Q. And how many weeks was that?
 20 A. Probably about -- approximately about six
 21 months.
 22 Q. Six months, okay.
 23 And so then were you -- what was the
 24 chronology? Were you hired and then went to the
 25 academy, or did you go right to the academy and

Page 7

1 then -- like, did you work as a special or
 2 anything like that before going into the academy,
 3 or...?
 4 A. No. I was hired and then went into the
 5 academy.
 6 Q. Okay. So you would have been finished
 7 the academy about mid-2010?
 8 A. No, it was two thousand -- because I got
 9 hired December 2010, so it was 2011 I was in the
 10 academy.
 11 Q. Okay. After the academy did you have
 12 any other training, other than on-the-job
 13 training? Were you ever sent to -- back to the
 14 academy or to any other facility for training?
 15 A. No.
 16 Q. Okay. Did you have -- was there any
 17 on-the-job training?
 18 A. Yes.
 19 Q. Can you describe the on-the-job
 20 training?
 21 A. Different, like, firearms training,
 22 training through the agency for, like, domestic
 23 violence.
 24 Q. Anything else that you can recall?
 25 A. Pretty much anything going to, like,

Page 8

1 different seminars through the agency.
 2 Q. Through the --
 3 A. Different seminars for, like, domestic
 4 violence for -- I'm trying to think. There was a
 5 lot of stuff.
 6 Q. These would be in the department,
 7 though?
 8 A. In the department, and also I would be sent
 9 to, like, stuff run by the county.
 10 Q. When it was done by the county, would
 11 this be the county prosecutor running it?
 12 A. For the most part, yes.
 13 Q. How many seminars, approximately,
 14 would you do yearly?
 15 A. At least one because it was mostly for,
 16 like, domestic violence.
 17 Q. And of the -- what percentage of these
 18 seminars were done by the department and what
 19 percent were done by the county?
 20 A. Most of them by the county.
 21 Q. Do you know -- do you remember any
 22 names of the county who did the training?
 23 A. It would be probably mostly Middlesex
 24 County.
 25 Q. Yeah, but do you remember any

Pages 5 to 8

Page 9

1 individuals?
 2 A. No.
 3 Q. Were they assistant county
 4 prosecutors?
 5 A. Assistant county prosecutors and other
 6 staff members from the county.
 7 Q. Were they investigators from the --
 8 A. I'm not sure.
 9 Q. Would you get certifications after
 10 completing these seminars?
 11 A. Yes. We would get like a certificate
 12 saying we attended.
 13 Q. Did you ever have any training
 14 following the -- after the events of this case
 15 addressing how this case was handled?
 16 A. No.
 17 MR. RUBENSTEIN: Specific as to this
 18 case, right?
 19 MR. SEXTON: Correct.
 20 THE WITNESS: No.
 21 BY MR. SEXTON:
 22 Q. Okay. Was there ever -- did anybody
 23 ever say anything to you about this case?
 24 A. No.
 25 Q. So then you -- fair to say then you

Page 10

1 never received a verbal warning concerning this
 2 case, anything about this case?
 3 A. No.
 4 Q. And there was no -- you never received
 5 any discipline relating to this case?
 6 A. No.
 7 Q. Do you know if anybody in the
 8 department ever did a review of this case or an
 9 investigation?
 10 A. As in -- what do you mean, like a detective
 11 doing the investigation or...
 12 Q. No. Do you have an Internal Affairs'
 13 office?
 14 A. Yes.
 15 Q. Who is the commander of IA?
 16 A. We usually report to Lieutenant Barrett.
 17 Q. Lieutenant Barrett?
 18 A. Yeah.
 19 Q. So would Lieutenant Barrett be the one
 20 who handles all investigations of misconduct or
 21 things -- problematic conduct of officers?
 22 A. Yes.
 23 Q. And do you know if Lieutenant Barrett
 24 ever did any kind of review or investigation of
 25 events based on this case?

Page 11

1 A. I don't know if he did or not.
 2 Q. And as far as you know --
 3 A. Yes. As far as I know, I don't think he
 4 has.
 5 Q. Now, have you regularly testified in
 6 court?
 7 A. No.
 8 MR. RUBENSTEIN: What do you mean by
 9 "regularly"?
 10 BY MR. SEXTON:
 11 Q. Have you testified in court?
 12 A. Yes, I have.
 13 Q. How many times have you testified in
 14 court, approximately?
 15 A. Depends -- testify as in trial or as in...?
 16 Q. Well, in trial or hearing, evidentiary
 17 hearing or something like that?
 18 A. Two or three times.
 19 Q. What were those -- why were you
 20 testifying? What were you testifying about in
 21 those cases?
 22 A. One was for a shoplifting that turned into
 23 armed robbery.
 24 Q. Was that at the criminal trial?
 25 A. Yes.

Page 12

1 Q. And were you one of the responding
 2 officers to that?
 3 A. Yes.
 4 Q. Okay. What were the other two?
 5 A. At that time, I was also with -- I was
 6 still in training, actually, so I was a training
 7 officer.
 8 Q. Okay. So but when you testified, what
 9 did you testify about? So you testified there was
 10 three, so one was shoplifting?
 11 A. One was shoplifting. The other ones I've
 12 done, like, grand jury testimony.
 13 Q. And those other two were for grand
 14 jury.
 15 And do you know what those matters
 16 were about?
 17 A. No, I don't. It was early.
 18 Q. Have you had any training in setting
 19 up IDs of suspects?
 20 A. What kind of setting up of IDs?
 21 Q. Did you know what a lineup is?
 22 A. Yes.
 23 Q. And tell me what you understand the
 24 lineup to be.
 25 A. Well, the lineups would be -- as the

Pages 9 to 12

Page 13

1 patrol, we primarily don't do lineups. It's
 2 usually detectives that do those.
 3 Q. Okay. And were you trained in the
 4 academy about lineups?
 5 A. We were told about it.
 6 Q. Do you remember what you were told?
 7 A. I can't remember.
 8 Q. Did lineups ever come up in any of the
 9 seminars you have yearly?
 10 A. No.
 11 Q. Do you, from any source, whether it's
 12 from watching Law & Order or from being on the
 13 job, have any understanding about the science of
 14 lineups?
 15 A. Yeah.
 16 Q. Okay. What's your understanding of
 17 the science of lineups?
 18 A. It's to -- well, if they have an
 19 individual, they'll match them up with other
 20 individuals that are similar looking, similar
 21 stature.
 22 Q. Okay. Then what do they do?
 23 A. Then asking an individual to see if that
 24 person is -- if that person that they're looking
 25 for is in that group of people.

Page 14

1 Q. Okay. So when they have a witness and
 2 they want to make an ID, they get similarly
 3 looking -- similar suspects together; is that what
 4 you're saying?
 5 A. Yes.
 6 Q. And is there also a science of how
 7 these suspects are presented?
 8 A. That I'm not sure how that's...
 9 Q. Okay.
 10 MR. SEXTON: I'd like to mark this
 11 as Plaintiff's Exhibit A, I guess.
 12 (Plaintiff's Exhibit A was marked
 13 for identification purposes.)
 14 BY MR. SEXTON:
 15 Q. I'll show you what's been marked as
 16 Plaintiff's Exhibit A. Take a couple seconds to
 17 look at it and...
 18 This three-page document has been
 19 marked as Plaintiff's A. Is this the report that
 20 you issued on January 26, 2019?
 21 A. No. This is not the January 26th report.
 22 This is the February 12th.
 23 Q. Okay. Where's the date?
 24 MR. RUBENSTEIN: It says right on
 25 the top, February 12, 2019.

Page 15

1 BY MR. SEXTON:
 2 Q. Did you do another report on the date
 3 of the -- on the 26th itself?
 4 A. Yes.
 5 MR. SEXTON: So we'll mark this as
 6 Plaintiff's B.
 7 (Plaintiff's Exhibit B was marked
 8 for identification purposes.)
 9 BY MR. SEXTON:
 10 Q. Is this the one from the 26th?
 11 A. Yes, sir.
 12 Q. Okay. So this is a four-page
 13 document, right?
 14 A. Yes, sir.
 15 Q. And how do we know that this was
 16 authored -- when was this authored?
 17 MR. RUBENSTEIN: Exhibit B. He
 18 wants you to look at Exhibit B and tell
 19 him how you know it was authored on
 20 January 26th.
 21 BY MR. SEXTON:
 22 Q. It says date/time reported, 1/26/2019,
 23 12:21:50. Is that indicating when this was
 24 generated?
 25 A. That's when it came into our dispatch

Page 16

1 center, when it came in.
 2 Q. Okay. So 12/21 in the morning is
 3 that...
 4 A. P.m.
 5 Q. Oh, that's p.m.? So that's when it
 6 was received by the -- by your report system?
 7 A. Yes.
 8 Q. Okay. These witnesses, did you take
 9 the names of these witnesses?
 10 A. No, I did not.
 11 Q. Okay. Who did that?
 12 A. Possibly Officer Lyszk.
 13 Q. The property, did you do this property
 14 inventory?
 15 A. No.
 16 Q. Did you personally observe any of this
 17 property?
 18 MR. RUBENSTEIN: At which point in
 19 time?
 20 MR. SEXTON: At any time.
 21 THE WITNESS: During the
 22 investigation, while initially at the
 23 hotel, maybe some items. Not all.
 24 BY MR. SEXTON:
 25 Q. Looking down these items here, which

Pages 13 to 16

Page 17

1 ones did you -- which ones, if any, did you
 2 observe on the 26th at the hotel?
 3 A. The Tennessee DL, the fake Tennessee DL.
 4 Q. Okay. By the way, sir, how tall are
 5 you?
 6 MR. RUBENSTEIN: Hold on a minute.
 7 He was in the middle of answering your
 8 question.
 9 MR. SEXTON: Okay. That's fair.
 10 THE WITNESS: The DL and the
 11 suspected marijuana, 44 grams of suspected
 12 marijuana. Those are the only two at the
 13 scene.
 14 BY MR. SEXTON:
 15 Q. Did you see the Dunkin' Donuts
 16 receipt?
 17 A. No, I did not.
 18 Q. Did you see his -- the sneaker that
 19 fell off the suspect as he fled?
 20 A. That was -- later I was told about that,
 21 since we were doing a foot pursuit.
 22 Q. When later?
 23 A. Probably -- we also had a short pursuit.
 24 But after that, coming back, was told there was a
 25 sneaker.

Page 18

1 Q. So that day?
 2 A. Yes.
 3 Q. Okay. Did you observe it?
 4 A. I can't remember if I did.
 5 Q. Now, you -- when you were responding
 6 to the Hampton Inn, you had taken -- am I correct
 7 in recalling you took the driver's license from
 8 the suspect?
 9 A. Yes.
 10 Q. And you ran it?
 11 A. I did not -- it was -- yeah, I had it run
 12 because the -- but it was not coming back. So
 13 then that was -- that's probably the last thing I
 14 did with that, was trying to have dispatch run it
 15 and see if it came back to anybody, if it was
 16 legitimate.
 17 Q. Now, your report said that you
 18 estimated that the suspect was about 5' 11",
 19 right?
 20 A. Yes.
 21 Q. And how did you make that estimation?
 22 A. See, I'm 5' 6", so the suspect was taller
 23 than I am.
 24 Q. Okay. And you were face to face with
 25 the suspect, right?

Page 19

1 A. Yes.
 2 Q. So you were able to suss him out by
 3 being next to him; is that fair to say?
 4 A. Yes. I was able to kind of see how tall he
 5 was.
 6 Q. So I guess this report is -- am I
 7 understanding correctly this report was started on
 8 the day of the incident, but it's updated with
 9 additional information as it came in? Because,
 10 for instance, it indicates that the suspect is
 11 Nijeer Parks.
 12 A. Yes.
 13 Q. And that was -- would have been input
 14 later, correct?
 15 A. Yes.
 16 Q. And did you put that into your report,
 17 or did someone else put that into your report?
 18 A. I did not put it in.
 19 Q. Okay. How would that have gotten into
 20 your report?
 21 A. It could be either possibly a detective
 22 following up.
 23 Q. Now, at the end of your narrative you
 24 say, "Investigation was turned over to the
 25 Detective Bureau."

Page 20

1 How was the investigation turned over
 2 to the Detective Bureau?
 3 A. We notify our dispatch and let them know
 4 that a detective will need to be coming out to the
 5 scene.
 6 Q. Okay. And then do you -- is there
 7 some kind of a briefing or a handoff that you do
 8 to the detective when the detective arrives?
 9 A. I'm trying to think... There is. We do
 10 try to give him a little information about
 11 what's -- what transpired with the incident.
 12 Q. Okay. Do you know if any such
 13 briefing was done in this instance?
 14 A. That I'm not too sure because I was
 15 mostly -- like I said, we had been trying to look
 16 for the individual that had left the -- took off
 17 in the vehicle.
 18 Q. But you pursued him onto, was it
 19 Route 9?
 20 A. Yes.
 21 Q. And then did you go -- did you recover
 22 the car, or was it someone else?
 23 A. I believe it was recovered later.
 24 Q. Okay. After you went onto Route 9 and
 25 you lost sight of the vehicle, what did you do

Pages 17 to 20

Page 21

1 next?
 2 A. Checked the area to see if we can still
 3 find the area, if he turned off any other street
 4 or -- did that for a little bit.
 5 Q. Did you return to the scene at the
 6 Hampton Inn?
 7 A. Yes.
 8 Q. When you returned to the scene at the
 9 Hampton Inn, what did you find?
 10 A. The detectives, they were basically looking
 11 over the area, the scene.
 12 Q. Do you remember which detectives?
 13 A. I do know Detective Quesada because he's
 14 our ID detective. He would be the one taking
 15 pictures, collecting evidence.
 16 Q. What is an ID detective?
 17 A. They come out and process the scene, taking
 18 pictures, fingerprints, evidence collection.
 19 Q. Did you speak to Detective Quesada?
 20 A. Yes.
 21 Q. Do you remember what you talked about?
 22 A. Just told him, like, which way -- when we
 23 did the foot pursuit, which way they came out, any
 24 possibilities of where the suspect may have
 25 touched anything. I also told him about the -- we

Page 22

1 might have video footage from the hotel.
 2 Q. Anything else?
 3 A. I think that's about it.
 4 Q. Do you know if any other detective
 5 besides Detective Quesada came out?
 6 A. I know another detective would come out,
 7 but I wasn't sure which one.
 8 Q. Would it have been Detective Tapia?
 9 A. Tapia? It's possible.
 10 Q. You know, one of the instructions
 11 should have been don't guess. If you have --
 12 A. Yeah, that's -- the thing is it is
 13 possible. I'm not 100 percent sure because once
 14 it's turned over to the Detective Bureau, the
 15 detective that comes out may not be the one
 16 assigned to the case.
 17 Q. How many are in the Detective Bureau?
 18 A. I do not know.
 19 Q. And are all of the Woodbridge police
 20 officers in a facility at the Town Hall?
 21 A. No.
 22 Q. You don't have any precincts or
 23 anything like that?
 24 A. No.
 25 Q. Substations?

Page 23

1 A. Substation, yes, but that's only used on a
 2 holiday.
 3 Q. Is that at the mall?
 4 A. Yes.
 5 Q. Did you have a training facility or
 6 anything like that at a different site, a range?
 7 A. Range is the only other facility.
 8 Q. And where's the range?
 9 A. It's on Crow's Mill Road in Keasbey.
 10 Q. Are there any officers at the range?
 11 A. For the firearms instructors.
 12 Q. Where is IA's office?
 13 A. 1 Main Street, the municipal building.
 14 Q. When you get post orders, who assigns
 15 them?
 16 A. Our shift commander.
 17 Q. Did you follow the investigation in
 18 any way after the incidents on the 26th of
 19 January, 2019?
 20 A. No.
 21 Q. What was the next thing you heard
 22 about the incident on the 26th after that date, if
 23 ever?
 24 A. Being told that they may have a suspect.
 25 Q. Okay. And do you remember when that

Page 24

1 was?
 2 A. I believe I did the supplemental report to
 3 it in February.
 4 Q. Okay. Do you want to refresh your
 5 recollection?
 6 A. Yes.
 7 Q. That's plaintiff's A.
 8 Do you remember when that was then?
 9 A. The report was February 5th.
 10 Q. So without looking at your report, do
 11 you have a present recollection of what happened?
 12 A. I was contacted by Lieutenant Ng.
 13 Q. By lieutenant who?
 14 A. Ng.
 15 Q. I-N-G?
 16 A. N-G.
 17 Q. It's just N-G?
 18 A. Yes.
 19 Q. Okay. And so the lieutenant called
 20 you.
 21 Were you on patrol at the time, or
 22 where were you?
 23 A. I don't believe so. I believe I was off
 24 that day.
 25 Q. Did Lieutenant Ng call you on your --

Pages 21 to 24

Page 25

1 how did he call you, on your phone, on the radio,
 2 on your house phone?
 3 A. On my phone.
 4 Q. That would be your cell phone?
 5 A. Yes.
 6 Q. What did he say in that conversation?
 7 A. Saying that he may have someone from the
 8 January incident, asking if I can come in.
 9 Q. And did you, in fact, go in?
 10 A. Yes.
 11 Q. Tell us what you remember about
 12 responding.
 13 A. Came in, was in the Detective Bureau. They
 14 were saying they might have someone that was
 15 involved in that January incident in the
 16 processing area, or booking area, and they asked
 17 me to see if I can help identify.
 18 Q. Okay. And where is that Detective
 19 Bureau -- well strike that.
 20 After that discussion, what happened?
 21 A. Then we went down to the processing/booking
 22 area, and then --
 23 Q. What did they tell you before you went
 24 down to that area?
 25 A. That they possibly had a suspect, to see if

Page 26

1 I can help ID that individual.
 2 Q. Did they tell you where the suspect
 3 was?
 4 A. Yes.
 5 Q. What did they say?
 6 A. It was in the processing room where we
 7 brought processed prisoners.
 8 Q. Did he say who he was with?
 9 A. No.
 10 Q. Your report says that -- okay.
 11 Tell us about what happened after you
 12 were at the bureau.
 13 A. I was brought down to the
 14 processing/booking area.
 15 Q. What's the processing/booking area
 16 like?
 17 A. It's just no -- there's two rooms. One is
 18 like a main area -- maybe it's, like, three rooms,
 19 the main area with two rails.
 20 Q. What's a rail?
 21 A. It's, like, a bench and then a railing
 22 behind the bench where a handcuff goes onto, so
 23 prisoners are handcuffed to this bench.
 24 Q. All right. So you went to the
 25 processing/booking area and -- are the rooms -- do

Page 27

1 they have a number on it, room one, room two,
 2 or...?
 3 A. No, it's just -- one of them will say,
 4 like, processing. But he was in the main area
 5 where we come in from the sally port, so it's,
 6 like, a main holding area essentially.
 7 Q. A sally port is sort of the -- when
 8 you come in the building, it's sort of a vestibule
 9 or something, a foyer?
 10 A. Yeah. That's where police vehicles would
 11 come in, and then we'll take the prisoner out
 12 from the vehicle, bring it into this main holding
 13 area.
 14 Q. So when you went to the main holding
 15 area, how many people were in it?
 16 A. I can't remember.
 17 Q. Okay. How many officers were in it?
 18 A. That I don't remember either.
 19 Q. What did you observe when you went
 20 into the main holding area?
 21 A. The alleged suspect sitting on one of the
 22 benches.
 23 Q. How did you know he was a suspect?
 24 A. I was told by Lieutenant Ng that was the
 25 individual that they had brought in from that

Page 28

1 incident.
 2 Q. And the suspect, was he handcuffed to
 3 the rail?
 4 A. I believe so.
 5 Q. How close did you get to the suspect?
 6 A. I was probably about 20, 30 feet.
 7 Q. Now, on January 26th at the Hampton
 8 Inn you had been face to face with the suspect,
 9 correct?
 10 A. Yeah.
 11 Q. And you had an extended conversation
 12 with the suspect, correct?
 13 A. Had some conversation, but I was mostly
 14 watching his hands.
 15 Q. Okay.
 16 A. Just part of the job is always got to watch
 17 their hands to make sure nothing -- you know, the
 18 individual is not going to do anything.
 19 Q. But you also made eye contact with him
 20 at some point?
 21 A. Yes.
 22 Q. Okay. On February 5th, in the main
 23 holding area, did you have any conversation with
 24 him?
 25 A. No.

Pages 25 to 28

Page 29

1 Q. Did you -- were you able to gauge the
2 height of this individual in the holding area on
3 February 5th? Did he stand up?
4 A. No.
5 Q. So fair to say it's pretty impossible
6 to gauge his height since he was sitting and
7 shackled to a rail?
8 MR. RUBENSTEIN: Objection.
9 Go ahead. You can answer.
10 THE WITNESS: Okay. Yes.
11 BY MR. SEXTON:
12 Q. And were you -- and were you able to
13 go eye to eye with the suspect?
14 A. No.
15 Q. Okay. After being shown the suspect
16 by the Lieutenant Ng, what happened next?
17 A. I was dismissed and...
18 Q. Did you say anything to the lieutenant
19 and detective, I think it's Penicaro?
20 A. I told them that was the individual.
21 Q. Okay. And what did they say, if
22 anything?
23 A. I don't remember if they said anything to
24 me after that.
25 Q. Do you know the video surveillance of

Page 30

1 that holding area, how long that's retained?
2 A. No, I do not know.
3 Q. After telling the lieutenant -- the
4 statement "that was the individual," you said that
5 to whom?
6 A. I was telling that to Lieutenant Ng and
7 Penicaro.
8 Q. To both of them?
9 A. Yes, because they were both there.
10 Q. Did you do anything else as a result
11 of this -- observing this suspect?
12 A. No.
13 Q. You did issue this report, did you
14 not?
15 A. Yes.
16 Q. Why did you do that?
17 A. Just so it's on the record showing that I
18 had come in and made that identification.
19 Q. Okay. Were you asked to write the
20 report?
21 A. Yes.
22 Q. Who asked you to write the report?
23 A. Supervisor.
24 Q. Which supervisor?
25 A. Which would be the Staff Sergeant Penicaro

Page 31

1 and Lieutenant Ng.
2 Q. Did you know any of the circumstances
3 about how the suspect had been identified whom you
4 ID'd on that date?
5 A. No.
6 Q. Did there come a time when you learned
7 how the suspect had been identified?
8 A. Yes.
9 Q. When was that time?
10 A. When this whole incident started coming up,
11 the reason why we came to the deposition.
12 Q. When the lawsuit was filed?
13 A. Yes.
14 Q. What is your knowledge of facial
15 recognition technology?
16 A. Not much.
17 Q. When did you first hear about facial
18 recognition technology?
19 A. Essentially when this came up.
20 Q. Had facial recognition technology been
21 addressed at any training that you ever had with
22 the department or with the county?
23 A. No.
24 Q. And that answer, is that good for
25 through today, up to this time?

Page 32

1 A. Yes.
2 Q. Were you aware that the Attorney
3 General had, around this time, put a moratorium
4 on the use of certain facial recognition
5 technologies?
6 A. No.
7 Q. Did you have any interaction with the
8 Middlesex County Prosecutor's Office at any time
9 regarding anything relating to this case?
10 A. No.
11 Q. So you never received any request for
12 statements or anything like that during the
13 prosecution?
14 A. No.
15 Q. Did you ever receive a notice that you
16 were going to have to appear in the case?
17 A. No.
18 Q. Have you ever been disciplined for
19 anything during your career with the Woodbridge
20 Police Department?
21 A. Can you be more specific?
22 Q. Have you ever been charged with any
23 misconduct?
24 A. No.
25 Q. Have you ever received a verbal

Pages 29 to 32

Page 33

1 warning for any attendance issue?
2 A. No.
3 Q. Any timeliness issue?
4 A. No.
5 Q. Have you ever been the target of an IA
6 investigation?
7 A. No.
8 Q. Have you ever been a defendant in a
9 lawsuit against the department?
10 A. No.
11 Q. Have you ever been a witness in a
12 lawsuit against the department?
13 A. No.
14 MR. SEXTON: I don't think I have
15 anything else.
16 MS. LEMPKA: We don't have anything.
17 MR. SEXTON: Thank you, sir, for
18 your time. I appreciate it.
19
20
21 (Deposition was adjourned at 10:18 a.m.)
22
23
24
25

Page 34

1 CERTIFICATION
2
3 I, LAURA P. REAM, being a Certified
4 Court Reporter and Notary Public within
5 and for the State of New Jersey, do hereby
6 certify that the foregoing is a true and
7 correct transcript of the proceedings.
8
9
10 LAURA P. REAM, Notary Public
11 License No. 3XT00004000
12
13 DATED:
14
15 This transcript is not to be copied
16 unless under the direct control and supervision of
17 the certifying reporter.
18
19
20
21
22
23
24
25

Pages 33 to 34

EXHIBIT “E”

Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 2:21-cv-04021 (JSX)(LDW)

X----- X

NIJEER PARKS,
Plaintiff,
v.
JORGE QUESADA
JOHN E. McCORMACK, MAYOR OF
WOODBIDGE, in his personal
and official capacity,
ROBERT HUBNER, DIRECTOR OF
THE WOODBRIDGE POLICE, in
his personal and official
capacity, CITY OF WOODBRIDGE
POLICE OFFICERS, ANDREW
LYSZK and WOODBRIDGE POLICE
SGT. JOSEPH LICCARDI,
WOODBIDGE POLICE OFFICERS
JOHN AND JANE DOE 1-20,
being as yet unknown actors,
MIDDLESEX DEPARTMENT OF
CORRECTIONS, JOHN AND JANE
DOES 1-20, being unknown
actors, MIDDLESEX COUNTY
PROSECUTOR, ACTING
PROSECUTOR CHRISTOPHER
KUBERIET, in his personal
and official capacity, and
ASSISTANT MIDDLESEX COUNTY
PROSECUTOR PETER NATASI, and
IDEMIA INC.'S being the
maker of the facial
recognition software and ABC
CORPORATION, being an as yet
unknown seller or servicer
of the facial recognition
programs,
Defendants.
X----- X
HUDSON COURT REPORTING & VIDEO (732) 906-2078

Page 2

TRANSCRIPT of the stenographic notes
of the proceedings in the above-entitled matter as
taken by and before CARMEN WOLFE, a Certified
Court Reporter and Notary Public of New Jersey,
at offices of JAMES P. NOLAN AND ASSOCIATES LLC, 61
Green Street, Woodbridge, New Jersey on Tuesday, August
16, 2022 commencing at 9:38 in the forenoon.

HUDSON COURT REPORTING
90 WOODBRIDGE CENTER DRIVE, SUITE 240
WOODBIDGE, NJ 07095
Toll-Free 800.310.1769 | NJ 732.906.2078 | NY
212.273.9911
scheduling@hudsoncourtreporting.com |
www.hudsonreporting.com

Page 3

APPEARANCES

DANIEL W. SEXTON ESQ, LLC
BY: DANIEL W. SEXTON, ESQ.
danielsextonesq@gmail.com
229 New Center Road
Hillsborough, New Jersey 08844
Attorneys for the Plaintiff.

JAMES P. NOLAN AND ASSOCIATES LLC
BY: FREDERICK L. RUBENSTEIN, ESQ.
frubenstein@jpnlaw.us
-and-
GARRY CLEMENTE ESQ.
61 Green Street
Woodbridge, New Jersey 07095
Attorneys for the Defendants Woodbridge.

DVORAK & ASSOCIATES LLC
BY: GRACE E. LEMPKA, ESQ.
glempka@dvoraklegal.com
467 Middlesex Avenue
Metuchen, New Jersey 08840
Attorneys for the Defendants, Middlesex County
Department of Corrections.

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(Exhibits retained by counsel.)

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1 JORGE QUESADA, having been sworn by the court reporter,
2 testifies as follows:

3
4 MR. RUBENSTEIN: I produced five
5 documents that have to do with the receipt and review
6 of the evidence -- some of the evidence in this matter
7 having to do with the fingerprint and palm print and
8 DNA evidence. I'm not sure if any of this was
9 produced. I think one or two pages were produced. I
10 just gave it to Counsel to make sure because I know
11 some of the documents were not previously produced.

12
13 DIRECT EXAMINATION BY MR. SEXTON:

14 Q. Good morning, Detective.

15 A. Good morning, sir.

16 Q. Have you had your deposition taken
17 before?

18 A. For this? No.

19 Q. For -- ever.

20 A. Yes. Yes.

21 Q. When have you been -- what matters were
22 you previously deposed in?

23 A. It was an armed robbery case that I had many
24 years ago. Maybe about eight years ago, nine years
25 ago.

Page 6

1 Q. It was in a criminal case or a civil
2 case?

3 A. Criminal case.

4 Q. And have you ever been in a deposition
5 for a civil case?

6 A. No.

7 Q. Either related to your professional life
8 or your personal life?

9 A. My wife had one I believe for a lawsuit. So.

10 Q. Were you questioned?

11 A. I was there for that. We were both questioned
12 together.

13 Q. Okay.

14 A. So I don't know if that was like a formal
15 deposition or not.

16 Q. Okay. Well, I'll just give you the run
17 down of the rules. You see that a transcript is being
18 taken by the reporter. So it's important for us to
19 communicate orally. She can't take down nods or
20 gestures, things like that. If I ask a question you
21 don't understand, feel free to ask me to clarify. At
22 different times your attorney will be interjecting
23 objections. Most of those are for the record. If he
24 instructs you not to answer, he and I will have to
25 figure that out --

Page 7

1 A. Okay.

2 Q. -- and then move on. That's about it.
3 At different times you might be asked things that you
4 need to refresh your recollection, and I'll show you a
5 document. And it will be important for you to try to
6 testify from your active memory rather than just
7 reading a document. And then finally, you're not
8 supposed to guess at answers. So if you don't know,
9 you don't know. But you can give your best -- best
10 recollection. All right. So how long -- when did you
11 come on the job, sir?

12 A. In '07.

13 Q. And prior to that -- what's your date of
14 birth?

15 A. 6/3/75.

16 Q. Okay. And what were you doing before
17 you became a member of the department?

18 A. I was a chef.

19 Q. Oh. And how long had you been a chef?

20 A. I ran a catering business four years prior.

21 Q. And what's your highest education level?

22 A. High school.

23 Q. And let's see. When did you become a
24 detective?

25 A. About three years after getting hired. So

Page 8

1 probably around '11 or '12.

2 Q. And how did you become a detective?

3 A. They had a -- department has rotations. You do
4 90-day rotations up there. And during my rotation
5 there was a spot that opened up. Ended up just taking
6 the retiring detective's case load. And I got lucky
7 and I was able to stay up there. My rotation went down
8 for six months and then it came back up.

9 Q. In this matter -- this matter being the
10 one matter involving Nijeer Parks -- you were the ID
11 detective; is that correct?

12 A. Yes, sir.

13 Q. What's an ID detective?

14 A. We process leads. If somebody breaks into a home
15 we go photograph. We look for evidence, collect
16 evidence, and submit the evidence.

17 Q. Are you always an ID detective or only
18 in certain cases are you an ID detective?

19 A. For about four years now I've been an ID
20 detective. And my only other duty I do arson
21 investigations also.

22 Q. So then 2019 you would have -- how long
23 had you been --

24 A. '18. At the end of '18.

25 Q. I forgot that instruction. We can't

Pages 5 to 8

Page 9

1 talk at the same time because she can only take one of
 2 us down. So when did you become -- to the best of your
 3 recollection when did you become an ID detective?
 4 A. The end of 2018.
 5 Q. So fair to say in January 2019 you had
 6 only been an ID detective for a couple months?
 7 A. Yes, sir.
 8 Q. When you came on the job what kind of
 9 training did you get?
 10 A. The police academy training. Six months' worth
 11 of police academy. Then we do yearly in-service
 12 training. And early on in the career I tried to go to
 13 any additional classes that were available. Our
 14 department would pay for the classes and we can go on
 15 off time or work days.
 16 Q. Which academy did you go to?
 17 A. Somerset County Police Academy.
 18 Q. When you became a detective was there
 19 any special training?
 20 A. They start sending you to different detective
 21 schools for interviews, various schoolings for that and
 22 classes, basically. And I used to go on my own to
 23 different classes.
 24 Q. Can you recall some of the training
 25 you've had relating to your detective work?

Page 10

1 A. Reed Interview School. There was a couple
 2 different interview schools that I went to.
 3 Q. Where was that? In South Jersey?
 4 A. I'm not sure where they're at. They're all over
 5 the place. I did a couple drug interdiction schools.
 6 I don't recall the other interview schools that I went
 7 to.
 8 Q. By interview school, interviewing
 9 techniques?
 10 A. Yes.
 11 Q. Other than interviewing -- interview
 12 training and drug interdiction training, have you
 13 received any other type of training?
 14 A. I was attached with the auto theft task force
 15 voluntarily. I used to go two days a week when I first
 16 started my career here. And through my police career
 17 -- I'm not going to be able to recall the classes that
 18 I did -- but I was just trying to keep up-to-date with
 19 case law and the policing techniques. For the ID
 20 school that's a state run, state police run schooling
 21 that they teach us how to read fingerprints,
 22 photography, evidence collection, and all that. That
 23 was completed in '18.
 24 Q. Fingerprints, photography?
 25 A. Evidence collection, shooting reconstruction.

Page 11

1 Q. Accident reconstruction?
 2 A. No accident reconstruction.
 3 Q. Is that a separate unit?
 4 A. Yeah. That's for the traffic unit.
 5 Q. For the who?
 6 A. Traffic.
 7 Q. Traffic. The auto theft, what was that
 8 -- what was your term for the auto theft?
 9 A. Auto theft task force.
 10 Q. Okay. Task force. Okay. Was that with
 11 the state police?
 12 A. That was with the Union Essex County Auto Theft
 13 Task force at the time.
 14 Q. And who ran that?
 15 A. I don't know who the captain was at the time for
 16 that. I really don't recall. I did that for about a
 17 year and a half. I used to go up there two days a
 18 month.
 19 Q. Have you -- well, have you had any
 20 training or interaction -- let me break that up. Have
 21 you had any interactions with the Middlesex County
 22 Prosecutor's office during your career as a detective?
 23 A. Yes.
 24 Q. Okay. What kind of interactions do you
 25 have with them?

Page 12

1 A. We've worked side by side -- I've worked side by
 2 side with them depending on what type of case it is.
 3 If we have anything major here that happens in town we
 4 automatically contact the county. They decide if
 5 they're going to respond to assist in the investigation
 6 or they just request that we contact them if anything
 7 new comes up if they don't respond. They basically
 8 only respond for any sexual assaults, shootings with
 9 hits, and serious injuries or sometimes suspicious
 10 deaths and overdoses.
 11 Q. How do you work side by side? How do
 12 you --
 13 A. Depending on the case, as an ID detective if we
 14 have a -- for example, we had a shooting here in the
 15 apartment complex and they responded. Before we knew
 16 that they were responding, I started doing the
 17 photography part of it. Once I realized that they were
 18 going to respond, I stopped all my actions. We
 19 maintained the scene. Their ID detective comes and
 20 then we work together, but they end up handling the
 21 investigation from that point forward with the
 22 photography and their collection. I would just assist.
 23 For other investigations they're basically another
 24 detective that work side by side with you to assist in
 25 the case if they deem that they need to get involved.

Pages 9 to 12

Page 13

1 Q. What are some -- who are some of the
 2 detectives that -- do you remember the detectives whom
 3 you've worked either with or under from the county
 4 prosecutor's?
 5 A. No, I don't.
 6 Q. Do you remember any?
 7 A. No. I would -- it's been quite a few years since
 8 -- the last person I probably worked with for -- it was
 9 a lieutenant with the prosecutor's office. He was in
 10 charge of the arson unit. And I worked with him quite
 11 a bit at arson investigations.
 12 Q. Do you remember his name?
 13 A. No, I don't.
 14 Q. Did you ever work with Peter Natasi?
 15 A. Yes. He was the AP who we used to contact for --
 16 if we needed -- he was our point of contact for the
 17 prosecutor's office.
 18 Q. When you would have assistance in
 19 investigations would it be through Peter Natasi?
 20 A. He was our prosecutor. So we would call him, but
 21 he wouldn't be involved in the actual investigation.
 22 The detectives from the county would be.
 23 Q. But would -- how would you get to the
 24 detectives? Would it be through Peter or --
 25 A. No, it would not be. Peter just on a legal

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1 side's the person that we talk to. If we needed the
 2 assistance from the county we call the county -- the
 3 main number -- off hours would be their main number --
 4 and then they would contact us back. And we let them
 5 know what kind of case we have, what we have, and see
 6 if they want to get involved in it.
 7 Q. By the way, did you talk to anybody
 8 about this case before you came here today?
 9 A. No, sir.
 10 Q. You didn't talk to Officer Lee?
 11 A. No.
 12 Q. You didn't talk to officer -- Detective
 13 Tapia?
 14 A. No.
 15 Q. Has anyone -- were you ever -- did
 16 anybody from the department ever talk to you about this
 17 case?
 18 A. When it -- when the first case was going on,
 19 yeah, we discussed this case.
 20 Q. And who's "we?"
 21 A. When we found out about the -- just we spoke with
 22 the lawyer when he came to our department for it.
 23 Q. Okay. Who's "we?"
 24 A. Our department.
 25 Q. No. But you said we discussed the case.

Page 15

1 So who's "we?"
 2 A. Myself, Detective Tapia, Lyszk at that point.
 3 That was, I don't know, maybe like a year and a half
 4 ago.
 5 Q. So you discussed amongst yourselves?
 6 A. No.
 7 MR. RUBENSTEIN: Don't discuss because I
 8 was present. Any communications that I was not present
 9 for is fine.
 10 Q. The question was -- you obviously can't
 11 tell me what you said with your lawyer, but did you
 12 discuss this matter amongst yourselves without your
 13 lawyer?
 14 A. No.
 15 Q. You never ever?
 16 A. No, sir.
 17 Q. And do you -- and that was sometime
 18 after the filing of this lawsuit that there had been a
 19 lawyer already assigned?
 20 A. Yes, sir.
 21 Q. Does Woodbridge have -- the Woodbridge
 22 Police Department have -- you must have a town
 23 attorney. Who's your town attorney?
 24 A. I don't know, sir.
 25 Q. Did any lawyer before your present

Page 16

1 lawyer talk to you about this matter?
 2 A. No, sir.
 3 Q. Did anybody in the department, any --
 4 not your lawyer -- but anybody in the department talk
 5 to you about the case?
 6 A. No, sir.
 7 Q. Nobody ever gave you a written warning
 8 about the matter?
 9 A. Not at all, sir.
 10 Q. Or a verbal warning?
 11 A. No.
 12 Q. You weren't -- there was no major
 13 discipline regarding it?
 14 A. Absolutely not.
 15 Q. There was no training that you utilized
 16 the facts of this case in any way?
 17 A. No.
 18 Q. Are you aware of any of the media
 19 interest in the case?
 20 A. I saw that was in 60 Minutes or 60 Seconds. One
 21 of the shows.
 22 Q. Did you watch that?
 23 A. No.
 24 Q. Are you aware of any other --
 25 A. No, sir.

Pages 13 to 16

Page 17

1 Q. -- coverage of the case? Have you ever
 2 been disciplined during your career?
 3 A. No.
 4 Q. And is that answer the same if we
 5 include verbal warnings or written warnings?
 6 A. I had a car accident once. And they talked to me
 7 about the car accident, but nothing internal with
 8 Internal Affairs.
 9 Q. So IA investigated but nothing happened?
 10 A. I've never been investigated.
 11 Q. So IA talked to you about it?
 12 A. No. My captain did.
 13 Q. When was that car accident?
 14 A. Maybe five years ago, six years ago.
 15 Q. It's fair to say you have no criminal
 16 record?
 17 A. No.
 18 Q. You still have your catering business?
 19 A. No. It wasn't my own catering business. Two
 20 brothers owned it, and I ran the kitchen for them.
 21 Q. Have you ever been sued for anything
 22 relating to your work as a police officer?
 23 A. No.
 24 Q. You did a report; right?
 25 A. An actual incident report like that? No, I did

Page 18

1 not, sir.
 2 Q. Oh, you didn't. Okay. Maybe that's why
 3 I'm not finding it. What do you recall about -- do you
 4 recall going to a scene on January 26, 2019, at the
 5 Hampton Inn?
 6 A. Yes.
 7 Q. What do you recall about that?
 8 A. The radio transmissions for assistance. We
 9 responded out there. Lyszk -- Lyszk and Officer Lee
 10 were in a foot pursuit.
 11 Q. In what?
 12 A. In a foot pursuit. And then they put out that
 13 the vehicle took off. It had crashed into a police car
 14 I believe. And I went out there initially to look for
 15 the car on the way to the scene. Did not see the car.
 16 And then once I got to the scene I spoke with the
 17 officers to find out what happened and on my end what I
 18 need to do to start processing the scene.
 19 Q. So what officers did you talk to when
 20 you got to the scene if you recall?
 21 A. It was Lyszk and Lee were together.
 22 Q. And what was their condition when you
 23 came upon them?
 24 A. They were excited. They just were involved in a
 25 foot pursuit. And the situation had escalated.

Page 19

1 Q. What do you mean by that?
 2 A. They just chased after somebody so they're going
 3 to be a little bit, you know, a little winded and
 4 trying to give out as much information on the radio to
 5 responding cars to try to apprehend the person.
 6 Q. Were you aware that C.O. Lee had been --
 7 P.O. Lee rather had been the victim of an assault?
 8 A. I'm sorry. Who?
 9 Q. Lee.
 10 A. Lee? At that time I don't think I was aware of
 11 that.
 12 Q. Okay. So what did they ask you to do
 13 initially?
 14 A. It's what I asked them. I asked them, you know,
 15 which way the person ran. They told me that there was
 16 a sneaker in the parking lot. They told me that he was
 17 carrying a bag that he had left behind. And he was
 18 drinking the water bottle that he actually placed in
 19 the garbage can during the interaction. I believe they
 20 had a lengthy interaction with the person at that time.
 21 Q. After this briefing what if anything did
 22 you do?
 23 A. I start processing the scene. I start with
 24 overall photos of the scene. I photographed where the
 25 bag was, contents of the bag. I photographed where the

Page 20

1 garbage can was and where I recovered the water bottle
 2 that was in the garbage can. And then they showed me
 3 the direction which way he ran. He ran out through a
 4 back door which was a common door that everybody in the
 5 hotel uses. And then he went down the sidewalk, went
 6 through a gated area, made the right. And I believe
 7 that's where the sneaker was was in the back parking
 8 lot. And he ran around the building. And then that's
 9 when he jumped in the car. And there was damage to the
 10 hotel, damage to the police car I believe. So I
 11 photographed all that. Once my photographs were
 12 completed I started checking for fingerprints.
 13 Q. You said he ran out through a back door?
 14 A. Yeah. A common doorway.
 15 Q. Can you describe that common doorway?
 16 A. It was a glass door with a like I believe the
 17 handle on it just to go out into the sidewalk. And
 18 then the sidewalk leads out to the rear parking lot of
 19 the hotel. And at the end of the sidewalk there's a
 20 metal gate, like a four-foot gate.
 21 Q. And you said you found a sneaker?
 22 A. Yes.
 23 Q. Okay. And can you describe that
 24 sneaker?
 25 A. I cannot. I don't recall what kind of sneaker it

Pages 17 to 20

Page 21

1 was.
 2 Q. I show you what's marked in the previous
 3 depositions as PL. Do you recognize those as the
 4 pictures you took?
 5 A. Yes.
 6 Q. And is that a ruler next to the sneaker?
 7 A. Yes.
 8 Q. Actually in every frame; right?
 9 A. Yes.
 10 Q. Is that standard?
 11 A. Just for size comparison.
 12 Q. Okay. And so looking at that picture,
 13 does that refresh your recollection of the sneaker you
 14 recovered?
 15 A. Yes.
 16 Q. Can you describe the sneaker?
 17 A. It looks like a tennis/basketball sneaker, white
 18 sole. I can't distinguish the colors on this since
 19 it's black and white.
 20 Q. And it looks to be at least size 12 or
 21 more?
 22 A. Well, that's the outside of the sneaker. The
 23 actual foot size is going to vary from different
 24 manufacturers.
 25 Q. So it's roughly the size of the ruler;

Page 22

1 though?
 2 A. Yes.
 3 Q. All right. After taking pictures and
 4 securing the sneaker and the bottle and all that I
 5 think you said you started to take -- lift some prints?
 6 A. Yes, sir.
 7 Q. Okay. What do you recall about lifting
 8 prints?
 9 A. The common doorway that he exited through is a
 10 common doorway. So I basically just dusted the whole
 11 door to see if I would see anything. Once I dusted the
 12 door I was able to see some of the prints. Those
 13 prints were lifted and photographed. Once I was done
 14 with the glass door I went out -- outside with the
 15 metal gate. And I also processed the metal gate, but I
 16 wasn't able to find any fingerprints on the metal gate.
 17 Q. So at that time is it correct to say
 18 that you only got prints off the glass door?
 19 A. Yes, sir.
 20 Q. Did you do anything else that night?
 21 A. Once the vehicle was located I went and processed
 22 the vehicle once consent was granted.
 23 Q. Was that that same night?
 24 A. Yes, sir.
 25 Q. Was it located at some other place than

Page 23

1 the Hampton Inn?
 2 A. Yes, sir.
 3 Q. Do you remember where it was located?
 4 A. Off of Main Street close to Route 9 in the back
 5 rear parking lot of a house or maybe like an office
 6 building. A house converted into an office building.
 7 Q. And what did you do when you got there?
 8 A. Photographed the scene. The vehicle was towed
 9 back to a secured lot, and then it was processed. I
 10 don't know if it was the same -- I'm pretty sure it was
 11 probably the same day once consent was granted.
 12 Q. Who processed it?
 13 A. I did.
 14 Q. Can you describe what processing is?
 15 A. To collect any items that are inside the vehicle,
 16 photograph, collect items, and then check for
 17 fingerprints.
 18 Q. I show you what's been marked as D. Do
 19 you recognize the receipt in that picture?
 20 A. I don't recall the receipt, but if it was in the
 21 vehicle I would have photographed it as being part of
 22 the stuff that I collected out of the vehicle.
 23 Q. Okay. And did you do anything in
 24 addition to collecting items out of the vehicle?
 25 A. Photograph and fingerprints.

Page 24

1 Q. Were you able to get any prints out of
 2 the vehicle?
 3 A. I don't believe anything usable was recovered
 4 from the vehicle.
 5 Q. Did that surprise you?
 6 A. No, it did not. No.
 7 Q. Go ahead.
 8 A. In cases like this the cars get wiped down real
 9 quick. And fingerprints are very delicate to be left
 10 behind. So if they do a quick wipe down -- there isn't
 11 too many surfaces in the vehicle you can recover
 12 fingerprints from.
 13 Q. There are not too many surfaces?
 14 A. No, there isn't.
 15 Q. But who would have wiped down the
 16 vehicle?
 17 A. The person driving the vehicle.
 18 Q. Intentionally?
 19 A. Intentionally, yeah.
 20 Q. Did you take some prints that you
 21 thought might be usable?
 22 A. I believe so. I'd have to look at my photos.
 23 Q. Do you remember what you did after you
 24 took the prints of the car if you took them?
 25 A. Once -- once we're done at the scene we go back

Pages 21 to 24

Page 25

1 to headquarters. And then headquarters will review all
 2 the fingerprints that are taken. If I believe that
 3 they're suitable to send out to the state police they
 4 get packaged. And once we have a couple packages ready
 5 to go down to the state police, one person from our
 6 unit drops them off there to the Holmdel barracks.
 7 Q. Do you always use the Holmdel barracks?
 8 A. Majority of the time, yes.
 9 Q. And how often -- what's the normal
 10 routine for -- or timeframe for submitting prints after
 11 they've been obtained?
 12 A. Once we have a couple jobs that are -- we have a
 13 little folder we keep the file -- the packages that go
 14 down to the state police. Once when have a couple of
 15 them ready to go down our -- one of our retired guys is
 16 the one that transports them to the state police. It
 17 probably happens within a week to two weeks of coming
 18 in.
 19 Q. Do you ever expedite it to get them
 20 delivered immediately?
 21 A. No.
 22 Q. Never?
 23 A. I never have. No.
 24 Q. What's the normal turnaround after you
 25 submit the prints to Holmdel?

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1 A. I would say maybe four to six weeks we get them
 2 returned. And that's either with a comparison or with
 3 nothing. That they've been placed into the system and
 4 then they'll be randomly ran through the system to see
 5 if anything new comes in to compare them to.
 6 Q. Is there any way to get that expedited?
 7 A. If it's a serious case. If it's like an
 8 aggravated sexual assault, a shooting, something like
 9 that. The state police is extremely backlogged with --
 10 with cases.
 11 Q. So if it's a serious case what can be
 12 done?
 13 A. Like a homicide, shooting with a hit, aggravated
 14 sexual assault.
 15 Q. I understand. So what could be done to
 16 get the prints read more quickly?
 17 A. You contact the state police and have them --
 18 say, hey, this is a case that we have; we would like to
 19 have it expedited.
 20 Q. And if they expedite it what's the
 21 timeframe then?
 22 A. I never had to do that so I don't know.
 23 Q. Is there any ability in your office to
 24 search any database of fingerprints?
 25 A. No, sir. Just our in-house.

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1 Q. Just what?
 2 A. Our in-house fingerprints.
 3 Q. Okay. Just the fingerprints that you
 4 have?
 5 A. We would have to go through individual card by
 6 card. We don't have a computerized fingerprint system.
 7 Q. Is that true of all departments?
 8 A. For Woodbridge we're pretty on top of things. I
 9 imagine most departments are like that that they don't
 10 have an in-house. State police handles that. That's
 11 who does all the fingerprinting.
 12 Q. You don't have a special investigations
 13 unit, do you?
 14 A. For sex crimes? Yes.
 15 Q. Can they do fingerprints?
 16 A. No.
 17 Q. Do you have a Bureau of Criminal
 18 Investigation?
 19 A. Yes.
 20 Q. That's where you work in?
 21 A. Yeah. We're part of CID. And then ID is another
 22 unit.
 23 Q. And your BCI cannot search fingerprints?
 24 A. No.
 25 Q. And you're saying that's kind of typical

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1 of municipal police departments?
 2 A. From my experience, yes.
 3 Q. And what's the population of Woodbridge?
 4 About 175?
 5 A. I think -- I think it's 100,000 right now. It's
 6 been like that for the past 30 years.
 7 Q. Did you do anything with the other
 8 evidence?
 9 A. It was packaged and sent out to state police for
 10 DNA comparison.
 11 Q. So the bottle and the -- what else?
 12 What was packaged?
 13 A. I think there was a vape pen, a bottle and a
 14 sneaker. Maybe just the sneaker and the water bottle
 15 was sent out for DNA.
 16 Q. So you don't take the -- you don't try
 17 to find DNA on these items, you sent them to try to
 18 find DNA on them?
 19 A. Yes, sir.
 20 Q. And where does get sent to?
 21 A. State police lab. I don't know which lab it goes
 22 to. I think it's down in -- it's by the shore. Sea
 23 Girt I believe it goes to. We don't deliver that
 24 ourselves. It goes down by our evidence department.
 25 Q. What do you mean?

Pages 25 to 28

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1 A. Once I get the item, the water bottle and the
 2 sneaker, I got to package it a certain way. I turn it
 3 over to our evidence department. And then once they
 4 have a couple of cases that got to go down, they have
 5 to be taken down to Sea Girt by a police officer. And
 6 then it gets dropped off there. And then once the
 7 state police is done with their processing of it, we
 8 actually have to go back with another police officer
 9 and the evidence guy to come pick up the items to be
 10 put back in our evidence department.
 11 Q. Do you know how often these deliveries
 12 are made to Sea Girt?
 13 A. It depends how many cases are there, but they're
 14 there within a couple of weeks. I'll say within, you
 15 know, four weeks or so I believe they could make it
 16 down to the lab.
 17 Q. And is there a way to expedite delivery
 18 to Sea Girt?
 19 A. It would be similar to what we discussed with the
 20 fingerprints.
 21 Q. And once at Sea Girt for DNA testing,
 22 how long -- what's the turnaround usually?
 23 A. I've been seeing stuff come back in about a year
 24 DNA, less than a year.
 25 Q. And is there a way to expedite that?

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1 A. If you would contact them like we discussed
 2 before I'm sure it would be able to get expedited.
 3 Q. Have you ever been involved in a request
 4 to expedite DNA testing?
 5 A. No, sir.
 6 Q. Would you agree that assault on a police
 7 officer is a serious crime?
 8 A. Yes.
 9 Q. Because it was a serious crime -- strike
 10 that.
 11 You said that the investigators from the
 12 county prosecutor's office routinely got involved in
 13 investigations of serious crimes; correct?
 14 A. Yes.
 15 Q. In this case did the investigators from
 16 the county prosecutor's office become involved?
 17 A. This wouldn't be a serious crime to them. This
 18 is something that happens on a regular basis.
 19 Q. So it's a serious crime to you but not
 20 to the prosecutor?
 21 A. They deem what they decide to come out and
 22 investigate. If the officer was -- had serious
 23 injuries, if he was in a hospital, I would think that
 24 they would get involved with something like that. It
 25 would be their call, their decision to come out.

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1 Q. Do you know for a fact that they had an
 2 opportunity to review this to determine whether it was
 3 serious enough to investigate?
 4 A. No, I do not. I wouldn't be contacted. The lead
 5 detective would be.
 6 Q. And do you know for a fact that they
 7 were not involved in investigating this?
 8 A. They did not respond at the time because I
 9 processed the scene.
 10 Q. Do you know if they responded -- became
 11 involved at anytime?
 12 A. I do not know.
 13 Q. It does happen, doesn't it, that the
 14 prosecutor -- investigators from the prosecutor's
 15 office will become involved after the initial
 16 investigation done at the scene?
 17 A. Yes, that does happen.
 18 Q. Do you have any experience with facial
 19 recognition technology?
 20 A. No, sir.
 21 Q. Have you ever -- have you had any
 22 training with facial recognition technology?
 23 A. No, sir.
 24 Q. Do you know anything about facial
 25 recognition technology?

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1 A. It was a tool that could have been used. I
 2 believe you can go through the ROIC with state police,
 3 but I've never dealt with it, never done it.
 4 Q. How do you know that?
 5 A. That it's a tool?
 6 Q. Yeah.
 7 A. From classes I've taken in the past, in case law
 8 updates, and stuff like that that I've read.
 9 Q. So then you have had some training on it
 10 then?
 11 A. Just my reading of it. No -- I haven't gone to a
 12 class that had specific training for it, no.
 13 Q. Then what are you referring when you
 14 said you know this from going to classes?
 15 A. From just reading case law and people at a class
 16 say, hey, have you seen facial recognition technology
 17 before; you know, this is what we did, but no formal
 18 teaching of it from anybody.
 19 Q. So based on case law, what case law are
 20 you referring to?
 21 A. I can't cite the case law, but that it has been
 22 used in cases prior.
 23 Q. Do you know where -- by cases do you
 24 mean reported cases in law books or do you mean --
 25 A. No. Detectives using it. The investigations.

Pages 29 to 32

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1 Q. So do you know where it has been used
2 before?
3 A. I don't, sir.
4 Q. Has it been used by the Woodbridge
5 Police Department before?
6 A. I don't know. I never used it.
7 Q. Okay. Are you aware of it -- other than
8 this case -- you're aware it was used in this case?
9 A. Yes.
10 Q. Okay. Had you ever been -- are you
11 aware of it ever being used on another case prior to
12 this case?
13 A. No, sir.
14 Q. Are you aware of it ever being used in a
15 case after this?
16 A. No, sir.
17 Q. How did you become aware that it was
18 used in this case?
19 A. When they -- when they got the information and
20 they signed the complaints.
21 Q. So you were aware that the facial
22 recognition technology was the basis for signing the
23 complaint?
24 MR. RUBENSTEIN: Objection. That's not
25 what he said.

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1 MR. SEXTON: That's the question.
2 MR. RUBENSTEIN: You're interpreting his
3 answer that way in answer to your question.
4 MR. SEXTON: Well, I'm asking the
5 question. That's the question.
6 A. No, sir. No. I was walking down the hallway and
7 Tapia said, hey, we got a hit on this guy.
8 Q. Who said?
9 A. Tapia.
10 Q. Tapia?
11 A. Yes. We might have a possible lead on the
12 person.
13 Q. We might have?
14 A. A lead.
15 Q. A lead. Okay.
16 A. It was to that extent the conversation. It
17 wasn't any information that was put out or anything
18 like that. Just in conversation.
19 Q. Did you -- what did you say in response
20 to that?
21 A. Great.
22 Q. Did you learn anything else about it?
23 A. No, sir.
24 Q. This a document that was marked as
25 Plaintiff's Exhibit E last week. Do you recognize

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1 that?
2 A. This is a comparison report where the fingerprint
3 that came from the state police gets compared by two
4 people that are certified to do so.
5 Q. Whose signature is that at the bottom?
6 A. I think it's Cioni.
7 Q. Who?
8 A. Maybe Cioni.
9 Q. Okay. Is that somebody out of the
10 Woodbridge department?
11 A. Yeah. He's the other ID detective.
12 Q. How do you spell his name?
13 A. It's C-I-O-N-I.
14 Q. Was he helping out on this matter?
15 A. No.
16 Q. So this says the date submitted --
17 A. Yes.
18 Q. -- 2/8/2019?
19 A. Yes, sir.
20 Q. So that's -- that's 12 days after the
21 incident?
22 A. Yes.
23 Q. And you're saying that's normal?
24 A. Yes, sir.
25 Q. That's a normal delay.

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1 MR. RUBENSTEIN: Just note my objection
2 to the form. "Delay."
3 Q. And the return date is 2/22/19. You see
4 that?
5 A. Yes.
6 Q. And you say that's a normal turnaround
7 time of 14 days?
8 A. I would say almost a month sometimes turnaround
9 time.
10 Q. What does it mean by the -- right above
11 the narrative it says, "Identification made by
12 Detective Cioni", and same thing for Velez?
13 A. So once the state police has the fingerprint and
14 they have a hit in their system, the fingerprint gets
15 sent back to us. Once we have that fingerprint, if
16 it's somebody of interest it has to be identified and
17 compared by two individuals from our department. So
18 when the state police says, hey, this has so many
19 points that are identifiable, we have to locate those
20 same points. And then a secondary person has to
21 confirm those identifiers to be able to say, yes, this
22 is the fingerprint belonging to such and such person.
23 Q. The narrative says, "The details make,
24 quote, the latent an exact match to the left palm
25 impression of Barrington Walker." End quote. Fair to

Pages 33 to 36

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1 say that's a very strong result?
 2 A. Yeah, it has to be a hundred percent that person.
 3 Once the state police has their identification, we have
 4 to back it up and verify it.
 5 Q. Do you know if that was done?
 6 A. That's what this is identifying, that that was
 7 done by our department. Yes.
 8 Q. Oh, so your department did the narrative
 9 below?
 10 A. Yes.
 11 Q. Okay.
 12 A. This is our report that's generated by our ID
 13 bureau once we get the fingerprint back as a match from
 14 the state police.
 15 Q. And then what happens -- what happened
 16 next as a result of anything of this report?
 17 A. This was done later on. Once the fingerprint was
 18 lifted off the door, once it was received back to our
 19 department, I send it over to Detective Tapia. And
 20 then --
 21 Q. Oh, actually it wasn't done until
 22 1/22/21.
 23 A. Correct.
 24 Q. So it wasn't done until after this
 25 lawsuit was well in the hopper?

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1 A. Yes.
 2 Q. And why did it take so long?
 3 A. At that time it was a common doorway. There was
 4 nothing pointing to that fingerprint having a
 5 connection to the actual suspect. I don't believe
 6 there's any type of video or anything showing that the
 7 person touched it or --
 8 Q. Why did you take it then?
 9 A. What's that?
 10 Q. Why did you take it then?
 11 A. For a possibility for evidence of -- if you go
 12 into an evidence scene, into a homicide and you see a
 13 water bottle sitting there or a Chapstick, you're going
 14 to try to collect what you can and then hold on to it.
 15 It could possibly be used later on in the case.
 16 Q. Really?
 17 A. Yes. I'm not going to discard -- if the person
 18 -- if I saw the person went out that door I'm going to
 19 do my due diligence to dust the whole door. Whatever
 20 fingerprints I find I'm going to try to lift.
 21 Q. The prints were left on the glass;
 22 right?
 23 A. Yes, sir.
 24 Q. On the interior; correct?
 25 A. Correct.

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1 Q. And that made sense because the guy was
 2 running and pushed -- would have pushed the door while
 3 he was running rather than using the handle; correct?
 4 A. I believe so.
 5 Q. And that's probably why you were smart
 6 enough to take these prints; right?
 7 A. I just took them because it was a common door and
 8 there's a possibility that I could have picked up
 9 anything from the person.
 10 Q. This is a document that was marked as P
 11 -- Plaintiff's Exhibit F last week. Do you recognize
 12 that?
 13 A. This is from the state police DNA laboratory.
 14 This is for the water bottle and for the sneaker
 15 swabbing.
 16 Q. Okay. And they were not able to find
 17 anything. Is that what this says?
 18 A. No. On the -- if I could see it. For the
 19 sneaker they were not able to recover anything to find
 20 for comparison purposes. And then for the water bottle
 21 they were able to find something. And it was entered
 22 into the DNA database.
 23 Q. But it doesn't give you a result?
 24 A. No. What happens with DNA is if the person's not
 25 in the system, once they're in the system it could

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1 become a match. I don't know how quickly that works
 2 with the state police, as soon as it gets put into the
 3 system, you know, how long it takes for a match to come
 4 up if it's in the system.
 5 Q. The date of this report is October 18,
 6 2019.
 7 A. Yes.
 8 Q. And you're saying that that's kind of a
 9 normal timeline of when these things are processed?
 10 A. Yeah. At that point the state police already had
 11 all the items in their possession.
 12 Q. Here's Exhibit G previously entered.
 13 What is this?
 14 A. This is an actual hit for the DNA that comes up
 15 to Walker.
 16 Q. And this was -- this is dated July 30,
 17 2021?
 18 A. Yes.
 19 Q. So again, this is -- the test was done
 20 long after the fact after this lawsuit?
 21 A. No. The test was done on that previous thing.
 22 This is when actually a match happened in the system.
 23 Q. So the test was done on what date?
 24 A. 10/18/19 was the date of this report saying that
 25 they recovered some DNA from the water bottle and they

Pages 37 to 40

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1 placed it into CODIS.
 2 Q. Notification will occur if there is a
 3 hit in the database?
 4 A. Correct.
 5 Q. And so CODIS generated this report on
 6 July 30, 2021, based on some new -- why did it -- I'm
 7 sorry. Strike that.
 8 What is your explanation why it happened
 9 on July 30, 2021?
 10 A. I believe his DNA wasn't in the system. So he
 11 could have been arrested or his DNA was introduced to
 12 the system and that's why the match finally came up.
 13 Q. Showing you Exhibit H from last week.
 14 You say on your narrative, "The above three prints
 15 recovered from glass door the suspect ran out from."
 16 You see that?
 17 A. Yes.
 18 Q. There's nothing in your narrative here
 19 to indicate any skepticism or doubt that those prints
 20 were from the suspect, is there?
 21 A. No. There was just a point of exit that the
 22 suspect went out of.
 23 Q. Correct. But there's nothing here
 24 saying, 'I'm taking this even though these prints are
 25 probably not his because this is a common door' as you

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1 keep referring to?
 2 A. No, I wouldn't put that in the report.
 3 Q. And indeed you're saying these are
 4 prints from the glass door that the suspect ran out
 5 from.
 6 A. Correct.
 7 Q. So clearly communicating that you
 8 suspected at the time of your report that these prints
 9 belonged to the actor.
 10 MR. RUBENSTEIN: Objection. That's not
 11 what he said.
 12 MR. SEXTON: That's his answer.
 13 MR. RUBENSTEIN: That is not his answer.
 14 MR. SEXTON: Please don't answer for
 15 him. Please don't answer for him.
 16 MR. RUBENSTEIN: I'm not answering for
 17 him.
 18 MR. SEXTON: Yes, you are.
 19 MR. RUBENSTEIN: You are deliberately
 20 misinterpreting what he's saying.
 21 MR. SEXTON: You are answering. You're
 22 telegraphing him his answer and that's inappropriate.
 23 MR. RUBENSTEIN: No, I'm not. Not at
 24 all. I'm saying that your question is inappropriate
 25 because you are twisting what he says and you've

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1 deliberately been doing it.
 2 MR. SEXTON: No, I'm not.
 3 MR. RUBENSTEIN: Absolutely. His
 4 testimony speaks for itself.
 5 MR. SEXTON: Would you let him testify
 6 and stop interrupting?
 7 MR. RUBENSTEIN: No. I'm going to let
 8 you continue to pervert what he's saying. Ask your
 9 question and let him answer.
 10 Q. You wrote right here, "The three prints
 11 recovered from the glass door the suspect ran out
 12 from." Now, you wrote that because you believed these
 13 were from the suspect; correct?
 14 A. No, sir.
 15 Q. Where did you -- where did you qualify
 16 that statement suggesting that you didn't really think
 17 these were his but they were someone else's because it
 18 was a common door? Is there anything on this
 19 document --
 20 MR. SEXTON: And please don't answer,
 21 Mr. Rubenstein. Let your witness answer.
 22 A. No. The suspect went out through the door so
 23 that's where I dusted to look for possible evidence.
 24 Q. But is there anything in this report
 25 where you hedge your good investigative performance

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1 here by saying, you know, in any way?
 2 A. No, sir.
 3 Q. Thank you. There's a second page to
 4 Exhibit H. It's not -- the second page, was it
 5 generated at the same time?
 6 A. Once the vehicle was processed I just added.
 7 What normally happens is I'll do the first report, give
 8 it to him. I guess he left that in his folder. When I
 9 later processed the vehicle I just added onto the
 10 report.
 11 Q. I see. So this indicates you thought
 12 you had five usable prints from the car; is that
 13 correct?
 14 A. Yes.
 15 Q. And then that ultimately turned out not
 16 to be true?
 17 A. Yeah. Once I get back to the lab and I actually
 18 look at them closer and determine if they're not going
 19 to be usable, then I don't send them in.
 20 Q. Do you still have those?
 21 A. No.
 22 Q. You discarded them?
 23 A. They get discarded, yes.
 24 Q. Again, in this narrative you say,
 25 "Above." Oh, I guess that's just the same narrative?

Pages 41 to 44

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1 A. Yes.
 2 Q. Then you added on. Is there anything on
 3 the second page where you hedge your fine detective
 4 work here in anyway suggesting that the three prints
 5 off the glass door were not connected to the suspect?
 6 A. No.
 7 Q. I show you Exhibit I from last week. Do
 8 you recognize this document?
 9 A. Yes.
 10 Q. What do you recognize it as?
 11 A. That's the packet that we send the fingerprints
 12 in down to this one to Holmdel.
 13 Q. Okay. Do you know would you have
 14 prepared this or someone else?
 15 A. I prepared the initial package to go down.
 16 Q. Is some of this your handwriting?
 17 A. Yes. The handwriting under the item numbers is
 18 mine. And the top portion for submitting agency, the
 19 case number, the crimes and all that is my handwriting.
 20 Everything has to be completed by the state police so
 21 the person who dropped off or picked up the items.
 22 Q. Do you know what date you prepared this?
 23 A. I would have prepared this most likely the day of
 24 the incident or the day after.
 25 Q. So item one, JMQ1?

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1 A. Yes. JMQ1.
 2 Q. JMQ1. What does JMQ stand for?
 3 A. It's my initials and print number one. Item
 4 number one. Print or item.
 5 Q. Where does this FBI number come from?
 6 A. From the state police.
 7 Q. And how did that -- that number get
 8 connected to these prints?
 9 A. So each individual print card that comes out is
 10 labeled JMQ1, JMQ2, and so on, or item. Once this --
 11 this is an envelope actually that you place those
 12 prints into the envelope. It gets sent down to the
 13 state police. Once the state police has them, they
 14 take each print card and they put it through the system
 15 or the computer, whatever they do. And if they have a
 16 match that's where the FBI number comes back. This is
 17 a possible match for this FBI number that's located on
 18 there.
 19 Q. And you got that number the day you were
 20 submitting these?
 21 A. No, sir.
 22 Q. When did that number get added to?
 23 A. We got this back on 2/14 of '19. Or 2/22.
 24 Returned on 2/22/19.
 25 Q. What's number SBI number? It's

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1 special --
 2 A. It's similar. It's a state ID number. The FBI
 3 number's a federal one. Everybody has a federal
 4 number. And it matches to the person with an SBI
 5 number.
 6 Q. Everyone has a federal number?
 7 A. No. Criminal.
 8 Q. One of your colleagues said everybody
 9 has one which alarmed me.
 10 A. No. If you have a firearms permit, firearms
 11 permit then you can have an SBI number.
 12 Q. Do you know did you fill out the SBI
 13 number?
 14 A. No.
 15 Q. Do you know who did that?
 16 A. State police lab.
 17 Q. Oh, okay. So they take your form, they
 18 fill it out and send it back to you?
 19 A. They send the original envelope back to us with
 20 everything inside of it.
 21 Q. What else did they fill out on this
 22 form?
 23 A. So they filled out everything on the right here.
 24 From Candidate FBI Number all the way to the right is
 25 all filled out by the state police.

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1 Q. I see.
 2 A. And then down here Delivered By is going to be
 3 whoever delivered it. And then on the state police
 4 side is whoever entered it and then returned.
 5 Q. And then NS means no -- what does it
 6 mean?
 7 A. Not suitable. Or no suspect also.
 8 Q. Do you remember getting this form back?
 9 A. I don't recall specifically getting it back, but
 10 on the date that I got it back that's when I would have
 11 gotten it back. We have multiple packets that go out
 12 and then they end up on my desk for the ones I sent
 13 out.
 14 Q. Do you remember -- actually, this is the
 15 14th now.
 16 A. 22nd.
 17 Q. 22nd rather. Do you remember what if
 18 anything you did with it?
 19 A. Once I get the folder back we actually have to
 20 make copies of it. It has to be filed in our end side
 21 of it. And then I prepare the copy and give it to
 22 Detective Tapia. And then that goes in his folder.
 23 And then that folder eventually goes to the county.
 24 Q. Do you know who at the county?
 25 A. No.

Pages 45 to 48

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1 Q. Do you know what office at the county?

2 A. No, sir.

3 Q. Who sends it to the county?

4 A. When the detective has to do the case file they

5 ask for all the information involved in the case. So

6 whatever AP or detective works on it up there they

7 would get the information.

8 Q. So then Detective Tapia would have sent

9 it to the county?

10 A. Yes.

11 Q. Okay. And do you know would we send it

12 to an investigator or to a --

13 A. I don't know.

14 Q. -- AP?

15 A. Yeah. When I used to be a detective we used to

16 do the whole case, make copies of everything and then

17 send it on out.

18 Q. And then would you be sending it to an

19 investigator or to an AP?

20 A. It goes to the county. So it wasn't anybody

21 specific. So I don't know who receives it at the

22 county.

23 Q. Would you have it hand delivered over

24 there or mailed?

25 A. No, mailed. It gets printed in an office and

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1 then it gets mailed through.

2 Q. Just to the main number?

3 A. Yeah.

4 Q. The main address? You said when you get

5 a fingerprint match it has to be a hundred percent?

6 A. It has to be -- yes.

7 Q. 99.9 doesn't work?

8 A. No. Everybody's fingerprint is different.

9 Q. I'm showing you Exhibit K that was

10 marked the other day.

11 A. This is the DNA request form.

12 MR. RUBENSTEIN: Is this a form?

13 MR. SEXTON: Yeah, he said it's a form.

14 Q. And it goes to whom?

15 A. To our evidence bureau.

16 Q. Your internal evidence bureau?

17 A. Yes, sir. They use this form to prepare their

18 sheet to send out to the state police lab.

19 Q. Does this also go out to the state

20 police?

21 A. No, it does not.

22 Q. Exhibit M from the other day. Do you

23 recognize this?

24 A. This is the NCIC information.

25 Q. And what does it indicate?

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1 A. It's for Walker.

2 Q. And how is this generated?

3 A. We can actually look this up, but this might have

4 came back with the fingerprint packet from the state

5 police with the FBI number that matches -- it comes

6 back with our fingerprint picture of our fingerprint

7 picture of the fingerprint on file. And they sent the

8 person's information along with that. And it's

9 actually -- it says at the bottom this is generated --

10 this is by the state police.

11 Q. So you would have seen this when the

12 prints came back?

13 A. Yes, sir.

14 Q. And what would you do -- do you remember

15 what you did with it?

16 A. Yeah. Like we spoke before, we have to file it

17 in our system. And then the packet gets forwarded to

18 Detective Tapia or whatever lead detective handles the

19 case.

20 Q. When you -- after you forwarded it to

21 Detective Tapia did you have any communication with

22 Tapia about it?

23 A. No.

24 Q. Did you know if Barrington Walker was

25 the person whom the facial recognition hit had

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1 identified?

2 A. No.

3 Q. Did you have any curiosity?

4 A. No.

5 Q. Why not?

6 A. I'm too busy. We're very, very business in

7 Woodbridge. It's kind of, you know, you do your job,

8 get it done, and file it where it goes.

9 Q. Do you have any questions as to why this

10 state police -- the state police information did not

11 change the department's position on who the actor was?

12 A. No.

13 Q. Did you have any -- did you have any

14 other involvement with this case after receiving this

15 information back from the state police?

16 A. No, sir.

17 Q. Did you receive the DNA results?

18 A. That was sometime later. Yeah, they end up

19 putting one of the -- the sheet on my desk and I got to

20 file that in with my paperwork.

21 Q. Is there any -- does the department have

22 any kind of a procedure or sort of alarm bell system or

23 tickle system when you get information, hard

24 information from the crime labs that contradicts

25 determinations that the detective bureau has made?

Pages 49 to 52

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1 MR. RUBENSTEIN: Objection as to form.
 2 You can answer.
 3 A. No. It -- no.
 4 Q. Did you ever hear of the Innocence
 5 Project?
 6 A. I have. Yes.
 7 Q. You don't have like an internal
 8 Innocence Project thing that's just trying to make sure
 9 you have the right guy when exonerating evidence comes
 10 out?
 11 MR. RUBENSTEIN: Objection as to form.
 12 You can answer.
 13 A. No. I believe he was already arrested and
 14 released before the fingerprints even came -- before
 15 the fingerprints came back. I think he was arrested
 16 within a couple -- like within a week or two and the
 17 fingerprints didn't come back for another three or
 18 four weeks on this. At that point it's just filed.
 19 And somebody's already been charged. And it was left
 20 alone.
 21 Q. Is there any provision for when an
 22 officer swears out a warrant or an Affidavit of
 23 Probable Cause when -- what happens if he gets
 24 information that is contradictory to the basis of which
 25 he swore out an affidavit?

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1 A. I don't know. I've never been involved -- I
 2 never had that happen to me.
 3 Q. You've never been informed in any of
 4 your training -- who taught you how to fill out an
 5 Affidavit of Probable Cause?
 6 A. You kind of just go with it when you talk to the
 7 prosecutor. Our systems have been changing. We used
 8 to go from paper warrant to move on to computer
 9 systems. So they had in-house training on how to fill
 10 out all -- the online complaint system.
 11 Q. Do you know when that switch was made?
 12 A. I do not know.
 13 Q. Do you know approximately? You came on
 14 in, what, '07?
 15 A. '07. So we had paper complaints for quite a few
 16 years after that. So maybe '15, '16, maybe.
 17 Q. Now, you knew that the actor at the
 18 Hampton Inn had been a black male; correct?
 19 A. Yes.
 20 Q. Had you -- were you aware that facial
 21 recognition technology had been found to be biased
 22 against Blacks?
 23 A. No.
 24 Q. You never heard that before?
 25 A. No.

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1 Q. Are you aware that the attorney general
 2 had outlawed certain facial recognition technologies
 3 around this time, the time of this incident?
 4 A. No.
 5 Q. Were you aware that the ACLU had brought
 6 lawsuits against the use of this technology because it
 7 was alleged to be racially biased?
 8 A. No. I've never used this so I never looked into
 9 it.
 10 Q. Showing you S, Exhibit S.
 11 A. I've never filled one of these out before.
 12 Q. Have you ever seen this before?
 13 A. No.
 14 Q. It says "For NJ ROIC Use Only." Is this
 15 the ROIC that you had referenced?
 16 A. Yes. So I guess this came from the ROIC. Yeah.
 17 Q. It says, "Request for facial
 18 recognition/photo array." Is that two different
 19 things? Or by reading this if you know --
 20 A. I don't know.
 21 Q. Okay. What is a photo array? Do you
 22 know?
 23 A. Photo array is something that we use with a
 24 victim of a crime where we compare a number of
 25 pictures. The pictures have to be approved by the

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1 prosecutor's office that are very similar. And they
 2 got to be very similar. They all have to be White,
 3 Asian, whatever the suspect was. And it gets presented
 4 to them individually or at the same time. And there's
 5 actually a form that you follow and you read verbatim
 6 that's provided by the county prosecutor's office.
 7 It's just for victims.
 8 Q. Just for victims?
 9 A. Yes, sir.
 10 Q. Never eyewitnesses?
 11 A. Witnesses also. I'm sorry.
 12 Q. Do you know why there's all of these
 13 rules around how to use a photo array?
 14 A. I'm sure because of court purposes. They want to
 15 have a standard set for it.
 16 Q. Is that because the law requires a
 17 certain objectivity?
 18 A. I believe so.
 19 Q. Have you ever done a photo array as you
 20 just described?
 21 A. Yes, sir.
 22 Q. What happens when a witness or victim
 23 makes an identification in a photo array?
 24 A. They have to sign it, circle it and sign it. And
 25 everything's recorded visually and audio. And the

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1 person handling the case does not present the photo
 2 array. Nobody involved with the case presents it.
 3 Q. Is that so that the person doing it
 4 doesn't even know who the actual person is?
 5 A. Correct.
 6 Q. Or the suspect is?
 7 A. Correct, sir.
 8 Q. So there can be no improper suggestions
 9 or anything like that?
 10 A. Correct.
 11 Q. And then when an ID is made what's done
 12 with it?
 13 A. It's put into evidence. And then the
 14 investigation is -- you move further with the
 15 investigation.
 16 Q. In your experience an ID in a photo
 17 array by a witness or a victim is that alone enough to
 18 swear in an Affidavit of Probable Cause and make an
 19 arrest?
 20 A. It depends on the -- we call the prosecutor and
 21 depends on other facts of the case surrounding it.
 22 Q. Totality of the circumstances stuff?
 23 A. You know, put everything together and see what
 24 you have and then you go to the prosecutor's office.
 25 Q. So the prosecutor will help you with the

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1 investigation?
 2 A. You would contact them this is what I have, what
 3 you think, and they would recommend charges or what
 4 they recommend for.
 5 Q. Or additional investigation?
 6 A. Uh-huh. Not additional investigation, no. They
 7 would just -- the prosecutor's office's basically the
 8 lawyer for the prosecutor. And they'll help you out
 9 with, you know, this is what I got, and then they'll
 10 give their recommendation for it.
 11 Q. What about do you ever work with
 12 investigators in your photo arrays?
 13 A. No. Me personally, no. For sex assaults I
 14 believe that they sometimes get involved with that.
 15 Q. Well, you said that the prosecutor sends
 16 down the little speech you make and the pictures.
 17 A. Yes.
 18 Q. So that's put together by investigators
 19 or by prosecutors?
 20 A. I don't know. It's their set standard form. We
 21 have -- we log into a computer and we have standard
 22 forms from the prosecutor's office to use for our
 23 investigations, consent searches, photo arrays, Spanish
 24 and English and stuff like that.
 25 Q. Have you ever sworn in an affidavit

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1 based solely on a photo array ID?
 2 A. I don't believe so. I don't recall. I've done
 3 quite a few of them in the past. I think it's been
 4 depending on the case.
 5 Q. Do you know what a lineup is?
 6 A. Like a lineup for a suspect?
 7 Q. Yeah.
 8 A. I know what they are, yes.
 9 Q. What do you know them to be?
 10 A. A live person lineup?
 11 Q. Yeah.
 12 A. I've seen them on TV.
 13 Q. Does it really happen? So you've -- I
 14 guess it's more labor intensive to set up a real live
 15 lineup than a photo array?
 16 A. Yes, sir. I've never done one or never looked
 17 into doing one.
 18 Q. You ever heard of one being done?
 19 A. No, sir.
 20 Q. Do you know what the term investigative
 21 lead means?
 22 A. It's a lead to assist in your investigation.
 23 Q. Can you give some examples?
 24 A. The DNA hit that came back on the person, it will
 25 say that terminology on it. And once we have a DNA

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1 hit, they actually request that you locate this person
 2 and get a comparison buccal swab to confirm or deny.
 3 Q. A comparison vehicle?
 4 A. Comparison swab, DNA swab from the person on the
 5 DNA hit.
 6 Q. If you get -- if that's positive is that
 7 -- is that DNA evidence or a lead?
 8 A. It's evidence. It's also a lead in the
 9 investigation.
 10 Q. Is it fair to say evidence is different
 11 than a lead, isn't it?
 12 A. Well, evidence is something you have, which DNA
 13 you have evidence. And the information provided by the
 14 DNA is a lead.
 15 Q. Did you ever review the interview of
 16 Nijeer Parks?
 17 A. No.
 18 Q. Did you know that Barrington Walker is
 19 six, one?
 20 A. No.
 21 Q. Well, you looked at the Tennessee
 22 driver's license; right?
 23 A. I might have taken a picture of it. I don't --
 24 if it was my job, my side of it was just to photograph
 25 stuff, but I didn't get involved with the actual

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1 investigation.
 2 Q. And did you know that Nijeer Parks is
 3 five, seven?
 4 A. I didn't know.
 5 Q. So you saw the picture of the sneaker
 6 that was the size of a ruler. And did you know that
 7 Nijeer Parks' foot is I think five, eight?
 8 A. No, sir.
 9 MR. RUBENSTEIN: I'm sorry. His foot is
 10 five, eight? That's what your question was. I'm not
 11 sure that's what you meant.
 12 Q. I didn't. Is size eight?
 13 A. No, sir.
 14 Q. So the sneaker was in evidence at
 15 headquarters?
 16 A. Yes.
 17 Q. The same time that Nijeer Parks was
 18 being questioned and put under arrest?
 19 A. I believe so. I don't think the evidence went
 20 out for like three weeks or so.
 21 Q. And so simply taking the sneaker down
 22 and asking him to put it on would have exonerated the
 23 suspect?
 24 MR. RUBENSTEIN: Objection as to form.
 25 Q. Wouldn't it have?

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1 A. No, sir.
 2 Q. Why not?
 3 A. The sneaker can't be touched because it's
 4 packaged for DNA submission.
 5 Q. So you could have taken it down with a
 6 plastic bag and put it next to his foot?
 7 A. No, sir. It's already packaged and signed and
 8 labeled in a brown paper bag that's all sealed up, all
 9 sealed up with duct tape.
 10 Q. Well, you could have taken a picture
 11 that you nicely took of the sneaker as being 12 inches
 12 long and considered that and put a ruler next to
 13 Nijeer's foot, could you not have?
 14 MR. RUBENSTEIN: Objection as to form.
 15 You can answer.
 16 A. No, sir. I wasn't there. I didn't know he got
 17 arrested. So on my end I -- it's not my investigation.
 18 Q. Your bureau -- is that what you call
 19 yourselves, a bureau?
 20 A. Yes, sir.
 21 Q. The detective bureau had this
 22 information. You talk to each other when you work
 23 together?
 24 A. Yes. I don't even know who interviewed Parks.
 25 Kondracki.

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1 Q. Okay. So you told me about special
 2 rules for a photo array.
 3 A. Yes.
 4 Q. Have you ever done -- and then there's a
 5 lineup we know from TV. And then is there also like
 6 other identification tools that detectives use?
 7 A. A show-up?
 8 Q. Yeah, what's a show-up? That's what I
 9 was looking for.
 10 A. If you have a crime that's active and the
 11 person's stopped and it's suspected that's the person,
 12 we could bring the suspect -- the victim to the suspect
 13 while he's in the vehicle and attempt to positively or
 14 -- identify or not identify the person. That's all
 15 recorded also. And there's a form for that process.
 16 Q. There's a form also for that?
 17 A. Yes, sir.
 18 Q. And that form, where does that form come
 19 from?
 20 A. It's a county form.
 21 Q. Do you remember some things that it
 22 contains? What do you remember about it?
 23 A. I haven't done one in quite a bit. So it's just
 24 a certainty of the identification I believe is in
 25 there. And I believe you got to say that this might

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1 be, might not be the person suspected of whatever crime
 2 is committed.
 3 Q. Were you given any training in show-ups?
 4 A. No.
 5 Q. Do you know how show-ups are used in an
 6 investigation?
 7 A. It could be as a tool also. It could confirm or
 8 deny that the person was involved by the victim's or
 9 witness' answer.
 10 Q. And can you explain again the context of
 11 when a show-up occurs?
 12 A. If a crime is committed and there's a description
 13 of the suspect and the suspect is located, it's got to
 14 be within -- within a certain timeframe from the
 15 original call to the time the suspect is located or
 16 person of interest is located.
 17 Q. Do you remember that timeframe?
 18 A. I don't. I want to say an hour. I don't think
 19 -- maybe two hours.
 20 Q. Are there certain conditions before you
 21 -- that have to be met before you subject somebody to a
 22 show-up ID?
 23 A. What do you mean by that?
 24 Q. Like, does the victim or witness have to
 25 give you a certain description? We know there's a time

Pages 61 to 64

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1 and I guess a distance within the area or something?
 2 A. It's got to be within reason. Everything kind of
 3 comes together in a situation like that. If the
 4 witness has a description, a clothing description, if
 5 he's Hispanic, he's Asian, he's Black, he's White,
 6 possible height, information like that.
 7 Q. Do you agree the height is important?
 8 A. Height's very -- it's not very accurate with
 9 descriptions.
 10 Q. So you're saying it's not important?
 11 A. They're all important.
 12 Q. Do you know anything about the
 13 identification that Officer Lee made?
 14 A. No, sir.
 15 Q. If I told you that Lee made the
 16 identification after being called down on his day off
 17 and was showed Nijeer Parks sitting on a bench cuffed
 18 to the rail having been told that the guy was in there,
 19 do you think that's a fair and appropriate manner of
 20 identification?
 21 MR. RUBENSTEIN: Objection as to form.
 22 I don't know what you mean by the guy was there. I
 23 don't know what you mean, but you can answer if you
 24 understand.
 25 A. I wasn't there so I don't know. So I can't speak

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1 for how he identified him.
 2 Q. So his narrative is, "On February 5,
 3 2019, I was contacted by Lieutenant Ng", N-G, "who
 4 advised me that they currently had an individual,
 5 Nijeer Parks, who was involved in the incident on
 6 January 26, 2019." We agree that that states a
 7 conclusion, doesn't it?
 8 MR. RUBENSTEIN: What are you reading
 9 from, Counsel?
 10 MR. SEXTON: Reading from A.
 11 Plaintiff's Exhibit A.
 12 Q. So "Parks who was solved in the incident
 13 on January 26, 2019." That's a conclusion, isn't it?
 14 A. Whatever Officer Lee wrote in his report he
 15 wrote. I'm not going to comment to his reports.
 16 Q. You read English; right?
 17 A. I do read English; correct.
 18 Q. Okay. And so, "Nijeer Parks who was
 19 involved in the incident on January 26, 2019." That's
 20 a conclusion, isn't it?
 21 MR. RUBENSTEIN: I'm going to object to
 22 the form because you haven't established when this
 23 report was written before or after Lee obviously saw
 24 the suspect. Makes a difference.
 25 MR. SEXTON: I don't need to do that.

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1 Q. I'm reading the narrative. The
 2 narrative says, "On February 5, 2019, I was contacted
 3 by Lieutenant Ng who advised me that they currently had
 4 an individual, Nijeer Parks, who was involved in the
 5 incident on January 26, 2019." The question is a
 6 grammatical question. Leaving your attorney's attempts
 7 to coach you aside --
 8 MR. RUBENSTEIN: You know what, Counsel?
 9 Stop it. I am not going to tolerate your crap anymore.
 10 MR. SEXTON: Okay.
 11 MR. RUBENSTEIN: I am not coaching the
 12 witness at all. I'm just trying to make sure that
 13 you're deliberately not confusing. And you're not
 14 going to get away with it anymore. Stop.
 15 MR. SEXTON: Okay.
 16 Q. You can answer the question. It's a
 17 grammatical question.
 18 A. So what's the question again?
 19 Q. That's a statement, is it not?
 20 A. Whatever he wrote in the report is here.
 21 Q. I know that. I don't need you here to
 22 tell me that. What I'm asking you is that a question?
 23 Is there anything about that first sentence that
 24 indicates it's an interrogatory? Is there any question
 25 mark after it?

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1 A. No, there's not a question mark.
 2 Q. It's a period; right?
 3 A. It's period. Correct.
 4 Q. And it says, "I was contacted." Right?
 5 A. Yes.
 6 Q. That's a simple past tense; correct?
 7 A. Yes, sir.
 8 Q. "He advised me" -- "who advised me that
 9 they currently had an individual, Nijeer Parks, who was
 10 involved in the incident on January 26, 2019."
 11 A. Okay.
 12 Q. That statement that's in this report, is
 13 there anything in that sentence that suggests that they
 14 had -- that Nijeer Parks was a suspect?
 15 A. I believe at that time a warrant was signed
 16 already and he was arrested.
 17 Q. Okay. What's your basis and belief for
 18 that?
 19 A. If he's in custody then -- if he was in custody
 20 then there had to have been a warrant signed for him to
 21 be arrested.
 22 Q. Okay.
 23 A. Am I correct on that? He already --
 24 MR. RUBENSTEIN: That's okay. That's
 25 your answer.

Pages 65 to 68

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1 Q. What would be the reason then to have
 2 Officer Lee come down?
 3 A. Just another further lead in the investigation.
 4 Q. Now, his narrative continues, "Once
 5 there, I observed Mr. Parks sitting on the rail and
 6 identified him as being the suspect." I can represent
 7 to you that Officer Lee testified that Parks was
 8 handcuffed to the rail when he went into the processing
 9 area.
 10 A. Okay.
 11 Q. As a detective, would you agree that
 12 that was highly suggestive to the witness?
 13 A. As a police officer we're able to -- we don't
 14 need a show-up, a lineup or anything like that to show
 15 a possible suspect. If Officer Lee suspected that that
 16 was the person or knew that that was the person, then
 17 that's his identification of the person.
 18 Q. So the normal human fallibility doesn't
 19 apply to police officers?
 20 MR. RUBENSTEIN: Objection as to form.
 21 A. It's handled differently than a witness or a
 22 suspect would be on the civilian side, not as an
 23 officer.
 24 Q. Are officers -- witnesses who happen to
 25 be officers are never shown a photo array?

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1 A. No, sir.
 2 Q. And why is that?
 3 A. I don't know, sir. That's just the way it is.
 4 It's not mandatory through the county.
 5 Q. Pardon?
 6 A. It's not mandatory through the county to do that.
 7 (There is a recess.)
 8 Q. Thank you, Detective Quesada. I just
 9 have a couple questions about the surveillance videos.
 10 Did you obtain the surveillance footage?
 11 A. No, I never observed it.
 12 Q. You never did?
 13 A. No.
 14 Q. Do you know if it was ever obtained?
 15 A. I believe so. That's something we normally --
 16 one of the first things we look for.
 17 Q. And why did you never obtain it?
 18 A. It's not my job.
 19 Q. It's not the ID detective's job?
 20 A. No, sir.
 21 Q. Whose job is it?
 22 A. The lead detective.
 23 Q. And you would never -- you were never
 24 involved in reviewing it or making any kind of
 25 assessment?

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1 A. The only time I would get involved in it is maybe
 2 if it show for a burglary that neighbor if he goes in
 3 through somewhere I would look at it to see if the
 4 person touched anything or something like that.
 5 Q. How about the Tennessee driver's license
 6 in this case? Did you do anything with that?
 7 A. No because the officers were handling it. I
 8 think I took a picture of it.
 9 Q. Did you do anything to evaluate it?
 10 A. No, sir.
 11 Q. Somebody else ran it; right?
 12 A. I believe Lee or Lyszk did it during their
 13 interaction with the person.
 14 Q. I believe you testified that you had no
 15 communications with Tapia after forwarding him the
 16 fingerprint match to Barrington Walker; is that
 17 correct?
 18 A. What do you mean "no communication?" About the
 19 case? No.
 20 Q. And did you ever discuss anything about
 21 where you obtained the prints from with Tapia?
 22 A. He was there. He was there doing his
 23 investigation. I was doing my thing. And I let him
 24 know, hey, I got some prints from here; I got some
 25 prints from there.

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1 Q. Okay. Do you recall any statements by
 2 Tapia at that time when you were getting all this
 3 evidence?
 4 A. No, sir.
 5 Q. When the prints came back from the cars
 6 not NS, not --
 7 A. It's either not suitable or not in the system.
 8 Q. Was -- those are very different things?
 9 MR. RUBENSTEIN: Objection.
 10 A. So when we get a hit back it comes back with the
 11 SBI number. When I determine it's not suitable, I
 12 discard those prints. The prints that were sent out
 13 that's on that -- on the packet, the envelope, those
 14 prints we still have. That's what state police ran
 15 through. They still might keep on running those prints
 16 through the system to eventually get a hit on those
 17 other prints if they're in the system. I only deal
 18 with it when there's a SBI number located to the print.
 19 And then there's prints that constantly get run through
 20 the system. They could be in there for years and then
 21 we'll get a hit back in one of the prints.
 22 Q. So in Exhibit I, the NS.
 23 A. Is done by the state police.
 24 Q. And do you know whether that's not
 25 suitable or not in the system?

Pages 69 to 72

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1 A. I do not know.
 2 Q. And those prints, did you say they're
 3 still maintained by you?
 4 A. Yes. And they should be maintained by the state
 5 police also. My understanding is that they're
 6 constantly run through the system for possible -- for
 7 possible hits.
 8 Q. But if it's not suitable that means
 9 they're not readable?
 10 A. Not readable. Correct.
 11 Q. If they're not suitable are they
 12 maintained?
 13 A. Yes, those prints we still maintained on our end.
 14 Q. When you looked at -- do you recall
 15 looking at them and thinking these are readable or not
 16 readable?
 17 A. If I sent them out I believe there's a
 18 possibility that they could be readable.
 19 Q. All right. That's all I have. Thank
 20 you.
 21 A. Thank you.
 22
 23 CROSS EXAMINATION BY MR. RUBENSTEIN:
 24 Q. Detective, when you were dispatched to
 25 the scene and you elected to take fingerprints and palm

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1 prints from the door that lead to the outside of the
 2 hotel, did you know for certain that these were
 3 fingerprints or palm prints that would come back to the
 4 suspect?
 5 A. No, sir.
 6 Q. So you did that -- you took the
 7 fingerprint and the palm print as a tool to try find
 8 out if someone would come back as a match who there was
 9 other evidence to suggest that this person could have
 10 been the suspect?
 11 A. Yes, sir.
 12 Q. Okay. When the fingerprint came back or
 13 the palm print came back, came back with the hit the
 14 gentleman by the name of Barrington Walker, that was
 15 around the tail end of February of 2019; is that
 16 correct?
 17 A. Yes, sir.
 18 Q. At that point in time do you know if Mr.
 19 Parks was under arrest?
 20 A. Yes.
 21 Q. And the process for having someone
 22 arrested like Mr. Parks in this case, do you know if it
 23 requires the prosecutor's office to review of all the
 24 evidence and the facts that they have at that point in
 25 time before a complaint warrant is issued?

Page 75

1 A. Yes.
 2 Q. And the prosecutor would then disclose
 3 to Detective Tapia in this case or to the investigating
 4 officer whether to -- whether there was enough evidence
 5 to -- or probable cause to file the complaint warrant?
 6 A. Yes, sir.
 7 Q. Was that done in this matter?
 8 A. Yes, sir.
 9 Q. And was that done with Assistant
 10 Prosecutor Natasi?
 11 A. Yes, sir.
 12 Q. At the time that Mr. Parks was arrested,
 13 he did not have any results -- or did you have any
 14 results of the DNA at that point?
 15 A. No, sir.
 16 MR. RUBENSTEIN: Okay. I guess I'm
 17 going to have this marked. So I guess I'll continue
 18 along the lines of where you left off with other P --
 19 so if you could mark this as PX and just put today's
 20 date on it, I'd appreciate it.
 21 (Plaintiff's Exhibit PX, Evidence
 22 receipt, was received and marked for identification.)
 23 Q. So Detective Quesada, I'm showing you
 24 what was marked as PX for identification. Can you tell
 25 me what that this?

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1 A. This is the evidence receipt I believe when the
 2 evidence was dropped off for a DNA signature.
 3 Q. Okay. Does this have anything to do
 4 with the fingerprints or just the DNA?
 5 A. Just the DNA.
 6 Q. On the bottom it has one and two. It
 7 says the water bottle and the sneaker.
 8 A. Yes, sir.
 9 Q. And does it say when it was dropped off?
 10 Or do you know when it was dropped off?
 11 A. I'm looking for the date. I believe it was
 12 dropped off the same date that the fingerprints
 13 happened to be dropped off.
 14 Q. That was about February 8th of 2019?
 15 A. I believe so. Yes.
 16 Q. All right.
 17 MR. RUBENSTEIN: We have this marked as
 18 PY?
 19 (Plaintiff's Exhibit PY, Second page of
 20 evidence receipt, was received and marked for
 21 identification.)
 22 Q. This is page one of two. Is that what
 23 it says on the bottom right-hand corner?
 24 A. Yes. Yes.
 25 Q. Is this the second page of that report?

Pages 73 to 76

Page 77

1 A. Yes. So it was delivered on 2/8/19.
 2 Q. So that's when the items were dropped
 3 off to be tested by the state for the DNA evidence?
 4 A. Yes, sir.
 5 Q. Okay. And that was about 13, 14 days
 6 after the incident?
 7 A. Yes, sir.
 8 Q. Is that common or is it too long a
 9 timeframe or is it within the realm of normal, normal
 10 under these circumstances, for this type of case?
 11 A. It's within the realm of normal.
 12 MR. RUBENSTEIN: Now, I'm going to have
 13 this marked as PY.
 14 (Plaintiff's Exhibit PY, Report for
 15 state police laboratory report, was received and marked
 16 for identification.)
 17 Q. And this PY is the document -- does it
 18 say April 17, 2019, in the top right-hand corner?
 19 A. Yes, sir.
 20 Q. Okay. What report is this?
 21 A. This is for the state police laboratory report.
 22 Q. Okay. And what does this show? Does it
 23 show when the tests were run? Does it show when it was
 24 sent out to be tested? What exactly does this report
 25 indicate?

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1 A. Here it's for the -- that the DNA -- DNA has been
 2 submitted to the DNA laboratory.
 3 Q. And for testing?
 4 A. For testing. Correct.
 5 Q. Okay. So they received the DNA -- we'll
 6 call it evidence for lack of a better term -- from
 7 Woodbridge on February 8, 2019; is that correct?
 8 A. Correct.
 9 Q. And they sent it out to be tested on
 10 April 17, 2019, a little bit more than two months
 11 later?
 12 A. Correct.
 13 Q. Okay. And then you were shown a
 14 document earlier dated October 19, 2019, which
 15 establishes that that's when they got the initial
 16 results back; is that correct?
 17 A. Yes.
 18 MR. RUBENSTEIN: Now I'm going to ask
 19 that this be marked as PZ.
 20 (Plaintiff's Exhibit PZ, Evidence return
 21 receipt, was received and marked for identification.)
 22 Q. Showing you what's been marked PZ for
 23 identification. What does this document reflect?
 24 A. This is the evidence return receipt.
 25 Q. And this evidence that you're referring

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1 to is the DNA evidence?
 2 A. Yes, sir.
 3 Q. And this is when it's returned from the
 4 state police to the Woodbridge police?
 5 A. Yes. Once they're finished with the processing
 6 we have to go there and pick up the items to put back
 7 in our evidence bureau.
 8 Q. And do you maintain that evidence?
 9 A. Yes.
 10 Q. Okay. Do you know if it still exists
 11 today?
 12 A. It should be. Yes.
 13 Q. Okay. So the whole process took a
 14 little bit less than -- my math is right -- nine months
 15 for you to submit the DNA, for you to -- for the state
 16 police to send it out to their lab to be tested, and
 17 for you to get the results, and get the sneaker and the
 18 water bottle back; is that about right?
 19 A. Yes, sir.
 20 Q. Okay. Is that an inordinate amount of
 21 time from the negative standpoint or is that, again,
 22 within the realm of normal? Or how would you
 23 characterize the timeframe?
 24 A. Normal.
 25 Q. Okay. Does Woodbridge have any control

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1 over the state police in how quickly it does -- absent,
 2 let's say, a homicide or a sexual assault matter -- how
 3 quickly it sends things out for testing and getting the
 4 results back?
 5 A. No, sir.
 6 Q. So this DNA that was -- what was found
 7 in October of '19, the results that were given to the
 8 Woodbridge police, that in no way reflected that Mr.
 9 Walker -- it was Mr. Walker's DNA at that point in
 10 time?
 11 A. No.
 12 Q. You were shown earlier a document dated
 13 July 2021. Was that the first indication from a DNA
 14 standpoint that Mr. Walker's DNA was on the water
 15 bottle and -- was that the first time you had found
 16 that out?
 17 A. Yes, sir.
 18 Q. Okay. There was no previous notice from
 19 the state police?
 20 A. No, sir.
 21 Q. Okay. If there had been anything
 22 earlier than that would Woodbridge have received
 23 notification that there was a hit?
 24 A. Yes.
 25 Q. Okay. So if something came out in '19,

Pages 77 to 80

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1 in the latter part of '19 or '20 or in '21 before July
 2 from the state police, you would have gotten
 3 notification or the Township of Woodbridge Police
 4 Department would have gotten notification?
 5 A. Correct.
 6 Q. And when you get the prosecutor's
 7 blessing to -- on the complaints that Tapia and Lyszk
 8 had drafted does it go to a magistrate?
 9 A. Yes.
 10 Q. Do you know if it went to the magistrate
 11 in this case?
 12 A. It would have to.
 13 Q. And what purpose does the magistrate
 14 serve? Do you know?
 15 A. To determine if the complaints can be signed
 16 against the person.
 17 MR. SEXTON: A magistrate?
 18 MR. RUBENSTEIN: I think that that's
 19 what he referred to.
 20 MR. SEXTON: Municipal court judge.
 21 MR. RUBENSTEIN: Municipal court judge.
 22 Q. So in this case my understanding is that
 23 Municipal Court Judge Stahl reviewed the evidence that
 24 was shown to him and he gave his blessing on signing
 25 the complaint; is that correct?

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1 A. Yes.
 2 Q. And his review, is it considered an
 3 independent review separate and apart from your
 4 department?
 5 A. Yes.
 6 MR. SEXTON: Objection. That asks for a
 7 legal conclusion.
 8 Q. Do you know why it's given to a judge
 9 such as Judge Stahl to review?
 10 MR. SEXTON: Objection. Calls for a
 11 legal conclusion.
 12 A. Just to -- that's the way the process goes. If
 13 we believe we have enough to sign a complaint against
 14 the person we have to verify with the judge so he could
 15 determine if there's enough -- enough there to sign the
 16 complaint.
 17 Q. Okay. And is that -- but did Judge
 18 Stahl sign off on these complaints?
 19 A. I believe so. Yes.
 20 Q. Now, at some juncture is -- all of this
 21 evidence you indicated was put together in a package
 22 and ultimately is sent to the prosecutor's office?
 23 A. Yes, sir.
 24 Q. Do you know if in fact that was done in
 25 this case?

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1 A. All the cases that I've worked personally, when
 2 it goes to the grand jury ultimately we prepare the
 3 folder. And the folder goes to the prosecutor's
 4 office.
 5 Q. And from there do you have any
 6 involvement once it reaches the prosecutor's office?
 7 A. No.
 8 Q. Do you have any decision making powers
 9 as to whether to prosecute this person such as Nijeer
 10 Parks or any other person who you send this package of
 11 information on?
 12 A. No.
 13 Q. Is that decision making solely within
 14 the purview of the in this case the Middlesex County's
 15 Prosecutor's Office?
 16 A. Yes, sir.
 17 MR. SEXTON: Continued objection as to
 18 legal opinions.
 19 Q. I don't have anything else. Counsel may
 20 have some more.
 21 MR. SEXTON: I don't have anything
 22 further. Thank you.
 23 MS. LEMPKA: I have nothing.
 24
 25 (The witness is excused.)

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1 (The matter is adjourned at 11:58 A.M.)
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Page 85

1 CERTIFICATE

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I, CARMEN WOLFE, a Certified Shorthand
Reporter and Notary Public of the State of New Jersey,
certify that the foregoing is a true and accurate
transcript of the deposition of JORGE QUESADA, who was
first duly sworn by me.

I further certify that I am neither
attorney or counsel for, nor related to or employed by
any of the parties to the action in which the
deposition is taken and that I am not a relative or
employee of any attorney or counsel employed in this
case, nor am I financially interested in the action.

CARMEN WOLFE
CERTIFIED SHORTHAND REPORTER

Dated: September 6, 2022

Notary Expiration Date: November 10, 2026

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EXHIBIT “F”

Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CIVIL ACTION NO. 21-04021-(JXN)-(LDW)

NIDEER PARKS,

vs.

JOHN E. McCORMACK, MAYOR OF WOODBRIDGE, in his personal and official capacity, ROBERT HUBNER, DIRECTOR OF THE WOODBRIDGE POLICE, in his personal and official capacity, CITY OF WOODBRIDGE POLICE OFFICERS, ANDREW LYSZK and WOODBRIDGE POLICE SGT. JOSEPH LICCIARDI, WOODBRIDGE POLICE OFFICERS, JOHN AND JANE DOES 1-20, being as yet unknown actors, MIDDLESEX DEPARTMENT OF CORRECTIONS, JOHN AND JANE DOES 1-20, being unknown actors, MIDDLESEX COUNTY PROSECUTOR, ACTING PROSECUTOR CHRISTOPHER KUBERIET, in his personal and official capacity, and ASSISTANT MIDDLESEX COUNTY PROSECUTOR, PETER NATASI, and IDEMIA INC.'S being the maker of the facial recognition software and ABC CORPORATION, being an as yet unknown seller or servicer of the facial recognition programs,

Defendants.

DEPOSITION OF

SERGEANT SANTIAGO TAPIA

TRANSCRIPT of the stenographic notes of the proceedings in the above-entitled matter, as taken by and before LAURA P. REAM, a Certified Court Reporter and Notary Public of the State of New Jersey, held at the law offices of James P. Nolan and Associates, 61 Green Street, Woodbridge, New Jersey, on Friday, August 12, 2022, commencing at 10:32 a.m.
HUDSON COURT REPORTING & VIDEO (732) 906-2078

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A P P E A R A N C E S:

DANIEL W. SEXTON, ESQ., LLC
BY: DANIEL W. SEXTON, ESQUIRE
229 New Center Road
Hillsborough, NJ 08844
201-406-9960
Danielsextonesq@gmail.com
Representing the Defendant,
Middlesex Department of Corrections

DVORAK & ASSOCIATES
BY: GRACE LEMPKA, ESQUIRE
467 Middlesex Avenue
Metuchen, NJ 08840
732-317-0130
Glempka@dvoraklegal.com
Representing the Defendant,
Middlesex Department of Corrections

LAW OFFICES OF JAMES P. NOLAN AND ASSOCIATES
BY: FREDERICK L. RUBENSTEIN, ESQUIRE
61 Green Street
Woodbridge, New Jersey 07095
732-636-3344
Frubenstein@jpnlaw.us
Representing the Defendant,
Township of Woodbridge

ALSO PRESENT:

SAMANTHA SALZONE, ESQUIRE

GARRY CLEMENTE, ESQUIRE

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1 SERGEANT SANTIAGO TAPIA, T-A-P-I-A, sworn by the
2 Notary Public, testified as follows:
3 DIRECT EXAMINATION
4 BY MR. SEXTON:
5 Q. Good morning, Sergeant.
6 A. Good morning.
7 Q. Have you had your deposition taken
8 before?
9 A. Never.
10 Q. So just a couple of instructions. You
11 see the court reporter here taking down everything
12 we say. It's important for our communications to
13 be verbal because she can't take a nod -- she
14 can't record a nod of the head or something like
15 that.
16 Also, I would ask that if there's any
17 question that I ask that you don't understand,
18 I'll be happy to rephrase it. From time to time
19 your attorney will make objections. Normally
20 they're just objections for the record and you'll
21 continue to answer. If your attorney says don't
22 answer, then he and I will discuss the issue and
23 figure it out and resume the deposition. I think
24 that's it. Then we'll just get started.
25 When did you come on the job?

Page 8

1 A. June 3, 2003.
2 Q. And can you describe your training,
3 when you came on in 2003?
4 A. Yes. I went to the police academy until
5 December of 2003, graduated from Somerset County
6 Police Academy. I was assigned to the Radio
7 Patrol Division, squad 11, which is nightshift.
8 From there I did five years in the
9 Radio Patrol Division. I was assigned to the
10 Middlesex County Prosecutor's Office Gangs, Guns,
11 and Drugs Task Force. From then I became a
12 detective in the Criminal Investigations Division
13 in Woodbridge.
14 Q. So Middlesex County -- what's it
15 called Middlesex County...?
16 A. Gangs, Guns, and Drugs Task Force.
17 Q. And do you remember what year that
18 was?
19 A. 2005/2006.
20 Q. And when you were on that task force,
21 were you physically working out of the
22 prosecutor's office at that time?
23 A. Yes, I was on loan to them.
24 Q. And how did that come about? Did you
25 request that, or were you chosen for that?

Pages 5 to 8

Page 9

1 A. I was chosen for it.
 2 Q. And as a member of that task force,
 3 did you receive special training?
 4 A. No training.
 5 Q. And --
 6 A. On-the-job training.
 7 Q. Okay. So how was the on-the-job
 8 training for that?
 9 A. Surveillance, undercover work, identifying
 10 drug dealers, learn the drug trade, both in
 11 Spanish and English, monitored wire taps.
 12 Q. Do you remember who at the
 13 prosecutor's office was conducting this training?
 14 A. Joseph Montone, Sergeant Joseph Montone.
 15 Q. M-O-N-T-O-N-E?
 16 A. Yes.
 17 Q. And was he a sergeant detective?
 18 A. Yes, sir, and anyone else at the
 19 prosecutor's office that was involved in training.
 20 He was the sergeant in charge. There was a
 21 lieutenant called Mimi Alvarez.
 22 Q. Mimi?
 23 A. Yes.
 24 Q. Is he a lieutenant detective?
 25 A. Yes.

Page 10

1 Q. So there's like the Detective Bureau,
 2 is that correct, in the --
 3 A. Yes, sir.
 4 Q. -- prosecutor's office?
 5 Do you know how many people are in
 6 the Middlesex County Prosecutor's Office Detective
 7 Bureau?
 8 A. There's a lot. I can't recall how many.
 9 In that specific task force there was three squads
 10 at the time, but I can't tell you how many people.
 11 Q. Were any assistant prosecutors
 12 involved in the training at all?
 13 A. No.
 14 Q. Were any of the assistant prosecutors
 15 involved in the supervision of the task force?
 16 A. No.
 17 Q. Okay. So did you have any interaction
 18 with any lawyer in that office?
 19 A. No, I did not. I didn't deal with them.
 20 Q. And so you were there for just two
 21 years, 2005/2006?
 22 A. It was approximately one year. It was
 23 between 2005 and 2006.
 24 Q. Okay. So then we're up to -- so what
 25 happened in 2006 then, after you left the --

Page 11

1 A. I went back to the radio patrol division.
 2 Q. And why did that happen?
 3 A. I was still assigned to a squad. I was
 4 only on loan.
 5 Q. Okay. Do you know at the time you
 6 were loaned to the task force how many other
 7 officers in the department were on loan to the
 8 prosecutor's office?
 9 A. Just one more from Woodbridge.
 10 Q. From Woodbridge?
 11 A. Yeah.
 12 Q. Who was that?
 13 A. Officer John Rial.
 14 Q. John...
 15 A. Rial.
 16 MR. RUBENSTEIN: Is that R-I-A-L?
 17 THE WITNESS: Yes, sir.
 18 BY MR. SEXTON:
 19 Q. Okay. All right. So back to the
 20 radio patrol in 2006. Continue on. You were
 21 doing great with your narrative.
 22 What happened?
 23 A. I went back to the radio patrol division,
 24 my same squad, squad 11 nightshift. In 2009 I was
 25 promoted to detective, and I was assigned to the

Page 12

1 Criminal Investigations Division.
 2 Q. Did you take a test to become a
 3 detective?
 4 A. No. I was chosen.
 5 Q. Okay. And is that considered, in
 6 the department, in the Woodbridge Police
 7 Department, is detective considered a rank or an
 8 assignment?
 9 A. It's an assignment.
 10 Q. When you were promoted to detective,
 11 what was your initial specific assignment?
 12 A. There is -- it's general detective work, so
 13 I was assigned to Criminal Investigations
 14 Division. Criminal Investigations Division is
 15 responsible for burglaries, robberies, homicides,
 16 thefts, indictable thefts. It's not specific to
 17 one crime.
 18 Q. How many in this time, 2009, I
 19 believe, how many detectives were in the
 20 general -- in the criminal investigation division?
 21 A. At that time I could not say. I don't
 22 recall how many detectives.
 23 Q. How many are in the whole department
 24 in 2009?
 25 A. I'd say close to 200.

Pages 9 to 12

Page 13

1 Q. And how about today?
 2 A. Closer to 220.
 3 Q. Did you say 220?
 4 A. Two-twenty, yes.
 5 Q. So would the Detective Bureau have
 6 about 50 people in it maybe?
 7 A. I'd say 30, if you combine all the
 8 divisions.
 9 Q. And within the detective assignment
 10 there are different ranks, there's sergeant
 11 detectives, is that correct?
 12 A. That's correct.
 13 Q. And the lieutenant detectives?
 14 A. Yes, sir.
 15 Q. Captain detective?
 16 A. There's a captain, yes.
 17 Q. When you became, in 2009, a detective,
 18 were you given special training?
 19 A. I was. I was sent to homicide school.
 20 Q. Where was that?
 21 A. Baltimore, Maryland.
 22 Q. Who ran that?
 23 A. It was the coroner's office in Baltimore
 24 County.
 25 Q. And how long was that training in

Page 14

1 Baltimore?
 2 A. I don't recall.
 3 Q. Was it longer than a month?
 4 A. No.
 5 Q. So it was a couple of weeks?
 6 A. Approximately one week.
 7 Q. And were you given some kind of
 8 certification or certificate after that training?
 9 A. Yes, sir.
 10 Q. And can you describe what that
 11 training consisted of?
 12 A. It consisted of autopsies. We were able to
 13 view autopsies being performed on gunshot wound
 14 victims, drowning victims, young adults, car
 15 accidents. Then there was training on gunshot
 16 trace residue, blood splatter, crime scene
 17 investigations.
 18 Q. Crime scene investigations, do you
 19 remember what they taught you about crime scene
 20 investigations?
 21 A. Secure a crime scene, preserving the
 22 evidence, collecting evidence, staged crime
 23 scenes.
 24 Q. What do you mean by that?
 25 A. Well, let's say, for instance, there's a

Page 15

1 drowning victim. Supposably they drowned in the
 2 bathtub and you draw everything out, and you
 3 conclude at the end of your investigation that
 4 that person didn't, in fact, drown inside of a
 5 bathtub, but they were drowned inside of a toilet
 6 bowl.
 7 Q. So it's like a -- is it a thing you do
 8 to test the hypothesis, you see if it works?
 9 A. Yes.
 10 Q. All right. So can you describe -- are
 11 you still -- you're sergeant detective now?
 12 A. No, sir. I'm back on the Radio Patrol
 13 Division.
 14 Q. So why don't you describe your time as
 15 a detective.
 16 A. So I was received training in interview and
 17 interrogations.
 18 Q. And where did you receive that?
 19 A. It's in New Jersey. I forget the town down
 20 south. I would have to refer back to that
 21 certificate to see where it was given. It was the
 22 John Reid Technique.
 23 Q. And is that -- that's a special
 24 interview technique?
 25 A. That's correct.

Page 16

1 Q. Okay. And what's the history of the
 2 John Reid Technique?
 3 A. John Reid was a polygraph expert, and he
 4 interviewed people while he was conducting the
 5 polygraph, and he teaches his -- what he called
 6 the Reid Technique.
 7 Q. And do you remember what the Reid
 8 Technique -- can you describe the Reid Technique?
 9 A. Sure. When people are lying, they have
 10 tells. Their body mechanism, the way that they
 11 move their eyes.
 12 Q. Would he also -- were you also taught
 13 how to use a polygraph?
 14 A. No.
 15 Q. Were polygraphs used at all in your
 16 work as a detective?
 17 A. Not myself, but I did see them used in
 18 several cases.
 19 Q. By Woodbridge?
 20 A. Yes. There was two cases: One was a
 21 homicide case; and one was an arson case.
 22 Q. Who determines when a polygraph is
 23 used in the Woodbridge department?
 24 A. Usually the lead detective.
 25 Q. Does somebody have to sign off on the

Pages 13 to 16

Page 17

1 use of a polygraph?
 2 A. I'm not certain about that.
 3 Q. Do you know if anybody -- when the
 4 polygraph is used, is the prosecutor's office
 5 involved in that decision?
 6 A. They can be. Specifically if it's a
 7 homicide, they would be.
 8 Q. Do you have an understanding on what
 9 role a polygraph result can play in an
 10 investigation?
 11 A. I've never used it myself.
 12 Q. So did you --
 13 A. I wouldn't know.
 14 Q. You wouldn't know. Okay.
 15 How about, do you know, from any
 16 source, what role a polygraph result can play in a
 17 prosecution in court?
 18 A. No.
 19 Q. Do you know what Reid's background
 20 was? Was he a psychologist, or...?
 21 A. He was -- I know he was a polygraph expert,
 22 but I don't know what department he worked for.
 23 Q. Now, you don't remember the South
 24 Jersey town this was in.
 25 A. No, sir.

Page 18

1 Q. Do you remember if this was a
 2 municipal police department, or a county police
 3 department, or any law enforcement office?
 4 A. I don't recall.
 5 Q. Or could it have been a private
 6 outfit?
 7 A. It wasn't a private outfit. It was a
 8 department somewhere down in South Jersey.
 9 Q. Okay. Thanks.
 10 And when did you do that class?
 11 A. They usually give it to us the first year
 12 as a detective. So I had to -- I'm not going to
 13 guess. I don't recall, but it was closer to my
 14 assignment.
 15 Q. And so is this something everybody
 16 went through?
 17 A. Yes, sir.
 18 Q. What other training did you have, if
 19 any?
 20 A. Well, I was assigned to the New Jersey
 21 State Police Auto Theft Task Force in 2016 to
 22 2017.
 23 Q. And then, once again, were you on loan
 24 to them?
 25 A. Yes, sir.

Page 19

1 Q. And what do they call them, barracks?
 2 Where were you?
 3 A. I was in Metro North in Irvington, New
 4 Jersey.
 5 Q. Did you receive any training when you
 6 were with the State Troopers?
 7 A. It was on-the-job training.
 8 Q. Can you describe some of that?
 9 A. Undercover work, surveillance, search
 10 warrants, identifying -- well, we were
 11 investigating sophisticated auto theft. They
 12 would steal high-end motor vehicles from affluent
 13 neighborhoods in New Jersey, secrete them in
 14 shipping containers, and destined for overseas.
 15 Q. So there was an ID part of this
 16 training? What was that? I think you started to
 17 say surveillance, search warrants, and ID?
 18 A. They did send me to identification school,
 19 yes.
 20 Q. And what do you learn -- where was
 21 that?
 22 A. Totowa.
 23 Q. And was that run by the Troopers?
 24 A. Yes, sir.
 25 Q. And what was taught there?

Page 20

1 A. Lift fingerprints from motor vehicles.
 2 Q. Anything else?
 3 A. No. That was it.
 4 Q. DNA testing?
 5 A. No.
 6 Q. Did you have any other training as a
 7 detective?
 8 A. They sent me to sexual assault school, but
 9 in my division we don't run sexual assault cases
 10 unless nobody's available from the Juvenile Aid
 11 Bureau.
 12 Q. The what?
 13 A. The Juvenile Aid Bureau. They handle all
 14 the sexual assault cases.
 15 Q. The Juvenile Aid Bureau.
 16 That bureau is part of what
 17 department?
 18 A. Woodbridge.
 19 Q. Woodbridge Police Department?
 20 A. Yes, sir.
 21 Q. Any other training that you can
 22 recall?
 23 A. They sent me to several homicide schools.
 24 There was one in Jersey City -- I'm sorry,
 25 Atlantic City, which was drowning homicide school.

Pages 17 to 20

Page 21

1 Q. And by "they," is that the Woodbridge
2 department or the NJ Troopers?
3 A. That was actually -- it was a private --
4 Q. But who sent you?
5 A. Oh, Woodbridge Police Department.
6 Q. And the school itself, was it private?
7 A. Yes, sir.
8 Q. I guess Woodbridge is on the Raritan;
9 is that right?
10 A. Arthur Kill.
11 Q. Arthur Kill?
12 Do you have boats, does the
13 department have a boat?
14 A. They used to. They don't have one now.
15 Q. Any other training?
16 A. Not significant training, no.
17 Q. Did you ever get any training on how
18 lineups are conducted?
19 A. Yes.
20 Q. Where did you receive that training?
21 A. I don't recall.
22 Q. Are there any departmental documents,
23 or orders, policies regarding lineups?
24 A. Yes.
25 Q. Do you know what policies those would

Page 22

1 be?
2 A. I don't know the exact policy. It's
3 out-of-court identification.
4 Q. How are the departmental policies
5 organized? Is there a handbook or a --
6 A. It's all online now. It's called IDS.
7 Q. IDS?
8 A. Yes, sir.
9 Q. And are you, like, required to go
10 through the policies when they're issued and it
11 keeps track of you electronically, whether you've
12 opened it, something like that, and sign it?
13 A. Yes, sir.
14 Q. Do they -- they used to read them out
15 at like roll call and things like that, right, new
16 policies; is that correct?
17 A. They assign it to you electronically
18 through IDS. You have to go in there and read the
19 policy and sign off on it.
20 Q. Do you remember a time when -- before
21 the IDS?
22 A. Before IDS it was all paper.
23 Q. When did IDS come in?
24 A. I don't know the exact year that it came
25 in.

Page 23

1 Q. Approximately?
2 A. I don't want to guess. I don't know.
3 Q. Are the policies still -- are they
4 maintained in written forms anywhere in the
5 department, or is it -- you only access them
6 through IDS now?
7 A. We only access through IDS.
8 MR. SEXTON: We'll make a demand for
9 policies relating to lineups.
10 BY MR. SEXTON:
11 Q. Had you, as a detective, had an
12 occasion to conduct lineups?
13 A. Yes.
14 Q. How often would you conduct lineups?
15 A. Approximately once every six months.
16 Q. And what kind of -- what's the
17 situation that would cause you to do a lineup?
18 A. Burglary cases.
19 Q. Anything else?
20 A. Aggravated assault, sexual assaults. Any
21 time that somebody saw the suspect that would be
22 able to identify them through a photo array.
23 Q. Through a what?
24 A. Through a photo array.
25 Q. Okay. So were the lineups you did,

Page 24

1 were they all photo arrays?
2 A. Yes.
3 Q. And you don't remember where you
4 received training in how to conduct a photo array,
5 do you?
6 A. I don't recall.
7 Q. Now, did you ever do an actual
8 physical lineup?
9 A. Never.
10 Q. Do you know if the department ever
11 conducted physical lineups?
12 A. Not since I've been on the job. Now, can
13 you clarify physical? Are you talking about a
14 live lineup?
15 Q. Yes.
16 A. Okay. Yeah, not since I've been on the
17 job.
18 Q. But you know about those?
19 A. Yes.
20 Q. And when you did a photo array lineup,
21 would you consult or be directed in any way by
22 anyone from the Middlesex County Prosecutor's
23 Office?
24 A. Yes, the zone prosecutor.
25 Q. I'm sorry?

Pages 21 to 24

Page 25

1 A. The zone prosecutor.
 2 Q. The zone?
 3 A. The zone.
 4 Q. Z-O-N-E?
 5 A. Yes, sir.
 6 Q. So the zone prosecutor. Is that like
 7 a designated -- what is a zone prosecutor?
 8 A. So we get assigned zone prosecutors. An
 9 assistant prosecutor would be assigned several
 10 towns that they would cover.
 11 Q. And what are the duties of that zone
 12 prosecutor?
 13 A. In regards to a photo lineup, he would have
 14 to approve the photo array before it is shown.
 15 Q. And is there some kind of a policy or
 16 order that sets this out?
 17 A. It's an Attorney General guideline.
 18 Q. Do you happen to recall the -- which
 19 one, the number?
 20 A. No. It would be under out-of-court
 21 identification.
 22 Q. What zone prosecutors did you work
 23 with while you were a detective?
 24 A. They change so often. They do.
 25 Q. Do you remember any?

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1 A. Yeah, Assistant Prosecutor Natasi.
 2 Q. Is that Peter?
 3 A. Yes. Assistant prosecutor Cindy Glaser.
 4 Several others. I can't remember the names.
 5 Q. Now, when you would do a photo array,
 6 what were the rules?
 7 A. The rules would be that first and foremost,
 8 they'd have to be -- you're asking for when
 9 they're being prepared?
 10 Q. Yeah.
 11 A. When they're being prepared, they usually
 12 go through the identification bureau, and they
 13 have a set of rules they have to follow as far as
 14 choosing the photographs that they're going to put
 15 together for the photo array. It has to be one of
 16 the suspect and five fillers in random order
 17 presented to the witness one at a time.
 18 Q. Does the witness have a chance to go
 19 back through them, or is it once through and
 20 that's it?
 21 A. No. He has a chance to go back through.
 22 Q. Does he also have the opportunity to
 23 spread them out on a table?
 24 A. No. That's not an option.
 25 Q. Are there rules about how the

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1 different photos or people in the different photos
 2 are dressed?
 3 A. Not dressed because it's only their face.
 4 But it has to be the same complexion, same
 5 hairstyle. If there's visible tattoos, you have
 6 to have similar people with similar tattoos.
 7 Q. How about facial hair?
 8 A. Same facial hair, correct.
 9 Q. Same race?
 10 A. Yes.
 11 Q. Same sex?
 12 A. Yes.
 13 Q. Do you know of any neighboring
 14 departments or anybody in the county or anywhere
 15 that does actual live lineups?
 16 A. Not that I know of.
 17 Q. Now, the rules you described for the
 18 photo array, do you understand -- can you tell us the
 19 rationale for those rules?
 20 A. For the rules -- I don't understand your
 21 question.
 22 Q. Why are there all these rules about
 23 having the same sex, same complexion, same race?
 24 A. Right. Because you want to make sure that
 25 the person who is viewing the photographs has a

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1 clear picture of who the suspect was.
 2 Q. If you showed an eye witness one
 3 single photo of somebody that you thought was the
 4 suspect, would that be a good way to ID a suspect?
 5 MR. RUBENSTEIN: Objection to form.
 6 You can answer.
 7 When you say show a witness, are you
 8 referring to lay people, police officers
 9 as the witness? Because that's a
 10 difference. I'm just asking.
 11 MR. SEXTON: I think the question
 12 can be answered as is.
 13 MR. RUBENSTEIN: I don't think it
 14 can because you're not asking him -- when
 15 you say a witness, what kind of witness
 16 are we talking about, a lay witness or not
 17 a lay witness?
 18 MR. SEXTON: Your objection is on
 19 the record.
 20 BY MR. SEXTON:
 21 Q. If you can answer the question,
 22 please.
 23 A. There is a difference between a police
 24 officer and a regular witness. What are you
 25 referring to as far as...

Pages 25 to 28

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1 Q. Well, the question is, if you show a
 2 witness -- without any coaching from your lawyer,
 3 if you show a witness a picture of a suspect and
 4 ask them if that's the person, the perpetrator
 5 they observed, is that consistent with your
 6 training as to how to conduct a photo array
 7 lineup?
 8 A. No.
 9 Q. So you were -- we've gone up through
 10 your time at the auto task force and in Irvington,
 11 right? That was up to 2017?
 12 A. Yes.
 13 Q. So were you called back to Woodbridge
 14 after that auto task force?
 15 A. I was, yes.
 16 Q. So sometime in 2017?
 17 A. I don't know the exact date that I came
 18 back, but in 2017 I came back.
 19 Q. And what did you do when you came back
 20 to Woodbridge?
 21 A. I continued my assignment as a detective.
 22 Q. And were you still on the nightshift?
 23 A. I was actually dayshift when I was assigned
 24 to the Detective Bureau.
 25 Q. Well, because you had been on the

Page 30

1 nightshift for a while, right?
 2 A. For patrol, yes.
 3 Q. But never as a detective?
 4 A. No.
 5 Q. Oh, okay.
 6 So basically when you became a
 7 detective in 2009?
 8 A. Yes, sir.
 9 Q. So from 2009 you were dayshift?
 10 A. Yes, sir.
 11 Q. Are there detectives on the
 12 nightshift?
 13 A. Yes, there is.
 14 Q. Is it, like, one?
 15 A. No, there's several.
 16 Q. And did you have any particular
 17 assignment during the dayshift when you came back
 18 in 2017?
 19 A. When I came back, I had a homicide.
 20 Q. And how long were you on that
 21 assignment?
 22 A. Seven months.
 23 Q. Then what was your assignment?
 24 A. I was working the case.
 25 Q. Working the case?

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1 A. Yes, homicide case.
 2 Q. No, but after seven months, what
 3 happened?
 4 A. Oh, after I cleared the case?
 5 Q. Yes.
 6 A. I was continuing my detective work.
 7 Q. So you were put on one case for seven
 8 months, or...?
 9 A. Well, soon after I came back I was assigned
 10 a homicide case, and I worked that.
 11 Q. Did that become like a full-time --
 12 A. Early -- in the very early months, yes, it
 13 becomes a full-time job.
 14 Q. Did you work with anyone at the
 15 prosecutor's office on that?
 16 A. I did.
 17 Q. Who was that?
 18 A. He's now a sergeant David Abromitis.
 19 MR. RUBENSTEIN: Could you spell his
 20 last name?
 21 THE WITNESS: A-B-R-O-M-I-T-I-S.
 22 MR. RUBENSTEIN: Thank you.
 23 BY MR. SEXTON:
 24 Q. Okay. And then after that
 25 investigation, what were you working on?

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1 A. Regular detective work.
 2 Q. And that would bring you up -- did you
 3 continue to do regular detective work up until the
 4 events at the basis of this matter in January or
 5 February/March of 2019?
 6 A. Yes, sir.
 7 Q. And when did you leave the Detective
 8 Bureau?
 9 A. December 14th of 2021.
 10 Q. And why did you leave the Detective
 11 Bureau at that time?
 12 A. I was promoted to sergeant.
 13 Q. Are you a detective still?
 14 A. I'm not a detective. I'm in the Radio
 15 Patrol Division.
 16 Q. Did you go on a -- did you take a test
 17 to be promoted?
 18 A. Yes, sir.
 19 Q. And did you have the option, once you
 20 were promoted to sergeant, to stay in the
 21 detective bureau or to go on patrol?
 22 A. I was not given the option.
 23 Q. Did you ask to remain as a detective?
 24 A. I asked, but there's no openings.
 25 Q. So is there any other training you had

Pages 29 to 32

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1 during this -- your time from 2009 until 2021 that
 2 we haven't discussed yet?
 3 A. I would have to refer back to my
 4 training -- my training sergeant to see if
 5 there's -- I've been to schools. I just can't
 6 recall what they are.
 7 Q. Okay. I don't think I got your
 8 background.
 9 What was your last year of education?
 10 A. I did about two years in college, but I
 11 don't have a degree.
 12 Q. And where did you work before you came
 13 on the job?
 14 A. I was with the United States Air Force.
 15 Q. How long were you in the Air Force?
 16 A. I did seven years active duty and the rest
 17 of my time I did in the National Guard.
 18 Q. Are you still in the Guard?
 19 A. No. I retired in November of 2018.
 20 Q. Did you do any training, either with
 21 the Air Force or the National Guard, relating to
 22 detective work?
 23 A. No.
 24 Q. I think they call it Military Police.
 25 A. Office of Special Investigations.

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1 Q. You weren't in that?
 2 A. No.
 3 Q. And do you have any disciplinary
 4 history? Have you ever been disciplined?
 5 A. Never been disciplined.
 6 Q. Have you ever received a written
 7 warning for anything?
 8 A. No.
 9 Q. How about an oral warning?
 10 A. No, sir.
 11 Q. Okay. Did you ever receive any
 12 discipline for the events at the basis of this
 13 matter?
 14 A. No.
 15 Q. Did you ever receive any written
 16 warning regarding this matter?
 17 A. No.
 18 Q. Did you ever receive an oral reprimand
 19 or anything orally regarding this matter?
 20 A. No.
 21 Q. Did you ever receive a corrective
 22 action memo or anything like that regarding this
 23 matter?
 24 A. No.
 25 Q. Have you ever received any

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1 communication about this matter from anyone in the
 2 department?
 3 A. Yes.
 4 MR. RUBENSTEIN: Pertaining to...?
 5 MR. SEXTON: Pertaining to anything.
 6 MR. RUBENSTEIN: Go ahead.
 7 BY MR. SEXTON:
 8 Q. The second question is, what were
 9 those communications? If they're communications
 10 from your lawyer, you can tell me you talked to
 11 your lawyer, but you can't tell me what you talked
 12 about.
 13 A. I talked to my lawyer about it.
 14 Q. What was that?
 15 A. I talked to my lawyer about it.
 16 Q. Okay. Anybody in the department?
 17 A. Oh, yes.
 18 Q. Who in the department?
 19 A. I spoke to Captain Neste.
 20 Q. N-E-S...
 21 A. T-E.
 22 Q. And what's Captain Neste's assignment?
 23 A. He's the division commander for the
 24 Detective Bureau.
 25 Q. And when did you talk to Captain

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1 Neste?
 2 A. I don't recall the exact date.
 3 Q. Do you recall the approximate date?
 4 A. It was close to December of -- last
 5 December, this last December.
 6 Q. 2021?
 7 A. Yes.
 8 Q. Okay. And do you know what triggered
 9 the conversation with Neste?
 10 A. It was when the -- the department was
 11 advised that there was a lawsuit.
 12 Q. And when you had this conversation
 13 with Captain Neste, was anyone else present?
 14 A. Lieutenant Klimuc, K-L-I-M-U-C.
 15 Q. And what is Lieutenant Klimuc's
 16 assignment?
 17 A. At that time he was the XO.
 18 Q. Command XO?
 19 A. He's the Detective Bureau's administrative
 20 lieutenant. They call them the XO.
 21 Q. The XOs, they take care of all the
 22 scheduling and that type of stuff? What does he
 23 do, I guess?
 24 A. I really don't know what he does.
 25 Q. Okay. Where did this discussion take

Pages 33 to 36

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1 place?
 2 A. In the captain's office, Captain Neste's
 3 office.
 4 Q. Do you remember what was said?
 5 A. They just advised me that there was a
 6 lawsuit.
 7 Q. Other than telling you there was a
 8 lawsuit, was there any discussion about the
 9 allegations?
 10 A. I don't -- no, there wasn't.
 11 Q. Did they give you a copy of the
 12 complaint?
 13 A. No, sir.
 14 Q. Was there any other communication you
 15 ever had with anyone in the department or the
 16 town, to extend that to include the mayor or
 17 mayor's office or --
 18 A. No, sir.
 19 Q. Okay. So just this one -- how long
 20 did this conversation last in Captain Neste's
 21 office?
 22 A. It was brief, and they advised me there was
 23 a lawsuit.
 24 Q. Have you ever been a defendant in a
 25 lawsuit before?

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1 A. No. Not that I can recall, no.
 2 Q. Have you ever been a plaintiff in a
 3 lawsuit?
 4 A. On the job?
 5 Q. In any kind of lawsuit.
 6 MR. RUBENSTEIN: Do you know what a
 7 plaintiff is?
 8 THE WITNESS: Yeah, I know what a
 9 plaintiff is.
 10 MR. RUBENSTEIN: Just making sure.
 11 THE WITNESS: I was a plaintiff in
 12 an eviction process.
 13 BY MR. SEXTON:
 14 Q. Where you had a tenant where you were
 15 trying to get...?
 16 A. Yeah.
 17 Q. Were you ever a witness in a lawsuit
 18 brought against the department?
 19 A. I've been brought up to IA as a witness
 20 once. I just don't recall if there was a lawsuit
 21 in place. This was over 15 years ago.
 22 Q. Do you have -- what do you guys call
 23 citizen complaints that IA reviews?
 24 A. Demeanor complaints.
 25 Q. Do they have -- do you call them 500

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1 complaints? Is there a special name for citizen
 2 complaints that IA reviews?
 3 A. We call them demeanor complaints.
 4 Q. Have you ever had a demeanor complaint
 5 against you?
 6 A. No, sir.
 7 Q. Are you aware of any lawsuits that
 8 were ever brought against the Woodbridge
 9 department?
 10 A. Against the Woodbridge Police Department in
 11 which I was involved in?
 12 Q. No, of any.
 13 A. I'm not aware of any.
 14 Q. You're not aware of any?
 15 A. If there was, I'm not involved in them.
 16 Q. No, just from -- do you live in town?
 17 A. I used to live in Port Reading.
 18 Q. Where is that?
 19 A. It's near Carteret.
 20 Q. Okay. So just from being -- living in
 21 the area, working in the department, were you
 22 aware of any civil rights lawsuits ever brought
 23 against anybody in the Department or the
 24 department as the entity?
 25 A. I'm not aware of any.

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1 Q. Have you ever brought charges against
 2 any officer?
 3 A. Have I charged any officer?
 4 Q. Yeah, with any misconduct?
 5 A. No.
 6 Q. Have you ever been a witness in a
 7 departmental disciplinary hearing?
 8 A. Can you rephrase that?
 9 Q. Are you ever -- are you aware of any
 10 discipline ever being brought against any member
 11 of the department, major discipline?
 12 A. Major? Yeah, there was one a couple years
 13 ago.
 14 Q. What did that involve?
 15 MR. RUBENSTEIN: Hold on a second.
 16 You're asking -- I'm going to object and
 17 instruct you not to answer. You're asking
 18 him about IA stuff, about other people who
 19 are not parties to this case. Forget it.
 20 You asked him the question if he's aware
 21 of it. We're still in dispute about that
 22 topic.
 23 MR. SEXTON: I'd like to get the
 24 Judge on the phone then because this is a
 25 waste of time.

Pages 37 to 40

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1 MR. RUBENSTEIN: It still has to be
2 briefed before the Judge. It's due the
3 next couple of days, a week. She hasn't
4 made her decision yet because it hasn't
5 been flushed out yet. But you're asking
6 him about someone else who is not a party.
7 MR. SEXTON: No, I understand. So
8 let's get the Judge on the...
9 (Whereupon, a brief break was taken
10 and a call was placed to the Judge.)
11 MR. SEXTON: So for the record,
12 defense counsel is making a frivolous and
13 clearly baseless instruction to the
14 witness not to answer questions about
15 Internal Affairs -- about disciplinary
16 matters in the department, even having
17 been advised that the Attorney General
18 now, as of the last two years, has all of
19 these matters published.
20 Despite being informed of that,
21 defense counsel continues to instruct and
22 insist that the witness not answer
23 questions regarding these disciplines.
24 We made an effort to get a ruling
25 from the Court, but unfortunately the

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1 magistrate was unavailable. Therefore, if
2 we have to come back, I'm going to ask for
3 costs because it's obstructionist and
4 going to run up the bill for my client,
5 who is a man without financial means.
6 MR. RUBENSTEIN: It was one question
7 posed to the witness that I have
8 instructed him not to answer. That's the
9 only thing we're dealing with at this
10 point in time.
11 MR. SEXTON: No, I --
12 MR. RUBENSTEIN: Excuse me. I did
13 not interrupt you. Please don't interrupt
14 me.
15 I don't feel that I'm an
16 obstructionist. I believe this is a
17 legitimate issue, and issue in which the
18 Court is still entertaining and has not
19 made a ruling on in this case.
20 Counsel is aware of that fact. He
21 could have gotten the ruling earlier; he's
22 chosen not to. It's not my responsibility
23 to do his work. I don't feel that I've
24 done anything wrong.
25 If the Court orders he has to answer

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1 it, Sergeant Tapia will come back and
2 he'll answer the question. But I have a
3 legitimate basis for my objection. That's
4 it.
5 MR. SEXTON: Actually, there's no
6 basis, and this has been discussed in
7 conference with the Court. The Court has
8 indicated that this is something that we
9 are entitled to and we should be able to
10 resolve.
11 And defense counsel has strongly
12 said, we've got it all, we've got it all
13 worked out. I'll get it to you, I'll get
14 it to you, I'll get it to you, and then it
15 never comes and now it's being presented
16 next week at our conference.
17 And this is just delaying matters
18 and is obstructionist, and this was the
19 first of a whole line of questioning.
20 It's not just one question. Now we're
21 going to have to come back another day,
22 and this is all, you know, improper --
23 based on improper objections of defense
24 counsel.
25 MR. RUBENSTEIN: And I would like to

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1 know at which point did the Judge make a
2 ruling that she said you were entitled to
3 this information because I haven't been
4 privy to that yet.
5 MR. SEXTON: No --
6 MR. RUBENSTEIN: You said the Judge
7 has made a decision on this issue. I'm
8 not aware of that.
9 MR. SEXTON: Well, you weren't
10 listening then.
11 MR. RUBENSTEIN: She's made a
12 decision -- in fact, she said --
13 MR. SEXTON: She indicated clearly
14 what she thought. This is my deposition,
15 and I'm going to continue with my
16 deposition now. Thank you.
17 MR. RUBENSTEIN: No. I'm going to
18 place what I want to on the record, and if
19 you don't let me, we'll end this
20 deposition right now.
21 MR. SEXTON: Go ahead.
22 MR. RUBENSTEIN: The Judge has made
23 it clear that it's to be narrowly
24 construed not to be broadly construed.
25 She has said that on several occasions,

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1 and counsel's aware of this fact.
 2 MR. SEXTON: I'm not.
 3 MR. RUBENSTEIN: Then you weren't
 4 listening. Now you can continue.
 5 BY MR. SEXTON:
 6 Q. Sergeant, when did you become aware of
 7 facial recognition technology?
 8 A. While I was working on with the Auto Theft
 9 Task Force.
 10 Q. And tell us how you became aware of it
 11 with the task force.
 12 A. There was members on the tasks force that
 13 used it successfully.
 14 Q. And how was it used at the
 15 auto -- this is the auto task force of the --
 16 A. New Jersey State Police.
 17 Q. And that was out of Irvington?
 18 A. Yes, sir.
 19 Q. And how was it used there?
 20 A. To identify people involved in auto theft,
 21 whether it was the low-level thieves or the
 22 higher-ups in the trade.
 23 Q. Can you recall particular cases where
 24 this technology was used?
 25 A. Particular cases, no.

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1 Q. Do you remember particular individuals
 2 who used it at the task force?
 3 A. It was Sergeant Pyrzanowski.
 4 Q. Could you spell Pyrzanowski?
 5 A. I'll try my best. P-Y-R-Z-A-N-O-W-S-K-I.
 6 He's a lieutenant with the Department of Criminal
 7 Justice.
 8 Q. Do you know what software Sergeant
 9 Pyrzanowski used?
 10 A. No. He didn't run it. He sent out for it.
 11 Q. Do you know where he sent it to?
 12 A. The Regional Operation Intelligence Center,
 13 the ROIC.
 14 Q. What do you know about the ROIC?
 15 A. They assist law enforcement agencies in
 16 several -- they have several tools that they use
 17 that we don't have the access to.
 18 Q. When did you first encounter the
 19 R-O-I-C?
 20 A. As a detective. I don't recall the first
 21 time I ever encountered them or used them for
 22 anything.
 23 Q. Had you encountered them before being
 24 on the Auto Theft Task Force?
 25 A. Yes.

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1 Q. Do you know what that acronym stands
 2 for?
 3 A. The ROIC?
 4 Q. Yeah.
 5 A. Regional Operation Intelligence Center.
 6 Q. Operations or Operation?
 7 A. You got me there, sir.
 8 Q. And do you know where it's located?
 9 A. It's in North Jersey. I don't know what
 10 town.
 11 Q. Do you know who runs it?
 12 A. The New Jersey State Police.
 13 Q. Do you remember any of the
 14 factual -- if you don't remember specific cases,
 15 do you remember specific factual scenarios where
 16 Lieutenant Pyrzanowski used facial recognition
 17 technology?
 18 A. In one instance that I can recall it was
 19 the possibility of an individual having a
 20 duplicate New Jersey driver's license.
 21 Q. And how exactly -- so this guy was a
 22 suspect?
 23 A. Yes, sir.
 24 Q. And he was suspected of stealing cars?
 25 A. Yes, sir.

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1 Q. And it was determined that he might
 2 have a dup -- not a duplicate. Oh, you mean a...
 3 It's not a duplicate, you mean a false one, right?
 4 A. A false one.
 5 Q. There's also an invalid one?
 6 A. One with the same picture, different
 7 information on it.
 8 Q. And how would facial recognition
 9 technology be useful in that instance?
 10 A. Same picture on the driver's license.
 11 Q. So you had a false license and an
 12 actual license and you wanted to see if it was the
 13 same person pictured?
 14 A. The same person who had different -- two
 15 licenses.
 16 Q. So then both photos were sent to be
 17 analyzed to see if the facial recognition
 18 technology said they were the same person; is that
 19 what you're...?
 20 A. Yes.
 21 Q. Do you remember if the facial
 22 recognition technology at the ROIC made a
 23 determination in that instance?
 24 A. That was Lieutenant Pyrzanowski's
 25 investigation. I don't remember the outcome of

Pages 45 to 48

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1 it.
 2 Q. Do you remember any other factual
 3 scenario where facial recognition technology was
 4 used at the task force?
 5 A. In reference to social media, when people
 6 would utilize accounts without their true name.
 7 Q. How were these -- what social media
 8 site, like Facebook?
 9 A. Facebook, Instagram.
 10 Q. And how would the facial recognition
 11 technology help in an investigation?
 12 A. They would submit the photos from the
 13 social media site and attempt to get an
 14 identification of the person.
 15 Q. So you had -- would you have -- you'd
 16 have a suspect in one of these autos rings --
 17 A. Yes, sir.
 18 Q. -- that you correlated with a social
 19 media site?
 20 A. Yes.
 21 Q. How would that connection be made?
 22 A. Usually with informants. They would only
 23 know them through their Instagram name or their
 24 Facebook name.
 25 Q. So these informants were participants

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1 in the crime?
 2 A. They were informants. They would often
 3 just know people by either their street name or
 4 their social media names because that's how they
 5 communicated amongst themselves. They never put
 6 their true identify on social media.
 7 Q. So why were they cooperating, these
 8 informants?
 9 A. Usually to work off charges on their own.
 10 Q. And would you make -- were you able to
 11 get hits, IDs through the facial recognition
 12 technology to get names of suspects?
 13 A. The task force members that were doing the
 14 facial recognitions, yes, they would.
 15 Q. When a connection was made, a hit was
 16 made, what would happen next?
 17 A. Well, we probably would corroborate that.
 18 Q. How would you corroborate it?
 19 A. Through -- get -- finding an address,
 20 doing surveillance on the individuals. Then known
 21 associates, do surveillance on them as well.
 22 Q. Would it be fair to say that at the
 23 task force facial recognition technology was used
 24 as an investigative tool?
 25 A. Yes.

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1 Q. Would you be involved in the swearing
 2 out of probable cause affidavits while on the task
 3 force?
 4 A. Yes.
 5 Q. Did you ever use a facial recognition
 6 hit as a basis for probable cause while at the
 7 task force?
 8 A. No.
 9 Q. Would you be involved in any of
 10 the -- in testifying as a witness in the criminal
 11 prosecutions of cases arising out of the Auto
 12 Theft Task Force?
 13 A. I'm sorry, can you say that again?
 14 Q. When these cases are coming out of the
 15 task force, went to trial, were you ever called as
 16 a witness?
 17 A. No.
 18 Q. How about at the grand jury?
 19 A. No.
 20 Q. What about at a -- probable cause
 21 hearings?
 22 A. No.
 23 Q. So you left the task force in 2017; is
 24 that right?
 25 A. Yes.

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1 Q. And when you came to the -- back to
 2 Woodbridge, when was the first time you have any
 3 knowledge of facial recognition technology being
 4 used at Woodbridge?
 5 A. I don't recall any cases specifically.
 6 Q. How about this case?
 7 A. That case, yes.
 8 Q. Okay. Other than this case, do you
 9 recall facial recognition technology ever being
 10 used at --
 11 A. Prior to this one, no.
 12 Q. How about since this one?
 13 A. I've used it, yes.
 14 Q. When have you used facial recognition
 15 technology after this incident?
 16 A. To identify known associates through a
 17 homicide suspect.
 18 Q. And was this to allow you to reach out
 19 to these associates to question them?
 20 A. Yes.
 21 Q. Do you recall ever -- any other use of
 22 facial recognition technology?
 23 A. No.
 24 Q. Is it fair to say that the use in this
 25 homicide investigation, that was used as an

Pages 49 to 52

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1 investigative lead?

2 A. Yes.

3 Q. Were you aware of any departmental

4 orders or instructions relating to the use of

5 facial recognition technology?

6 A. No.

7 Q. Are you aware of any policies or

8 instructions from the Middlesex County

9 Prosecutor's Office relating to the use of facial

10 recognition technology?

11 A. No.

12 Q. Were you aware that the AG barred the

13 use of facial recognition technology in 2020

14 because of this -- racially biased?

15 A. It was actually one software that he

16 banned, which was called Clearview.

17 Q. Do you remember when that actually

18 took place?

19 A. I don't.

20 Q. And do you know how you know about the

21 information relating to Clearview?

22 A. He sent out a memo.

23 Q. And how did you come to see that memo?

24 A. It was distributed.

25 Q. Who distributed it?

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1 A. Well, he distributed it to the county

2 prosecutor's office, and the county prosecutor's

3 office distributed it to police departments.

4 Q. Do you have a copy of that memo?

5 A. No.

6 Q. Did you read it online or in paper, do

7 you remember -- or did you read it?

8 A. I did read it. Yeah, it was online.

9 Q. Was it required reading? Did you have

10 to check off on the -- what's that system...

11 A. IDS?

12 Q. Yeah.

13 A. No. I don't believe there was an IDS. It

14 was an e-mail.

15 Q. And who was the e-mail sent to?

16 A. I don't recall.

17 MR. SEXTON: If you could get me a

18 copy of that e-mail, that would be great.

19 MR. RUBENSTEIN: You provide it to

20 me, and I'll provide it to counsel. Thank

21 you.

22 BY MR. SEXTON:

23 Q. Let's switch gears and talk about this

24 matter.

25 What do you recall about your

Page 55

1 involvement with the investigation of the events

2 at the Hampton Inn in Woodbridge on January 26,

3 2019?

4 A. I was working that day as my detective

5 role. I was summoned to the scene. Detective

6 Quesada from the Identification Bureau responded

7 as well. I spoke to the officers on scene,

8 Officer Lee and Officer Lyszk.

9 They explained what had unfolded. I

10 secured the crime scene, tried to preserve the

11 evidence that was left behind by the suspect,

12 specifically one shoe and one empty water bottle.

13 I had them secure the glass door to

14 the lobby that the suspect had exited from.

15 Detective Quesada began to process the crime

16 scene, collect evidence and photograph. I

17 attempted to get the video from the lobby.

18 Q. Did you get it?

19 A. No, I did not. No one could access it at

20 that time. I did get a copy of it later.

21 Q. What was the holdup at the time?

22 A. It was -- the manager wasn't available, and

23 he was the only one who could access it and no one

24 else could do it who was working there.

25 Q. Do you remember when you got it?

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1 A. It was not that day. I don't recall an

2 exact date that I got it.

3 Q. Were you jointly in charge of this

4 investigation with Quesada, or was one of you in

5 charge?

6 A. So I was in charge, but Quesada is just in

7 charge of processing a crime scene. He's the

8 identification detective. So he's in charge of

9 the crime scene.

10 Q. Okay. So as the ID detective, what

11 were his responsibilities?

12 A. Photograph the crime scene, dust and lift

13 for prints, collect evidence.

14 Q. And does he do anything with these

15 things, or what does he do with these things?

16 A. If he collects evidence, he would package

17 it and send it off to the State Police lab for

18 examination.

19 Q. What is the time frame for sending the

20 evidence off?

21 A. You would have to ask him. Detective

22 Quesada would be able to answer that question.

23 Q. You have no knowledge about what time

24 frame the evidence --

25 A. No.

Pages 53 to 56

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1 Q. Let me finish.
 2 You have no knowledge about when
 3 evidence is supposed to be sent to the lab?
 4 A. When? Is there a specific time frame?
 5 Q. Yeah.
 6 A. No.
 7 Q. Do you know if it's better to send it
 8 sooner rather than later?
 9 A. I would ask Detective Quesada that
 10 question.
 11 Q. Well, you were a detective for many
 12 years in many different offices. Do you have
 13 any -- whether as a detective or as a layman, do
 14 you have any opinion as to when evidence should be
 15 sent in for processing?
 16 A. I don't know of any timeline. If you're
 17 asking for my opinion, sooner would be better.
 18 Q. Can you think of any reason to hold
 19 off for weeks and not send it in?
 20 A. Any reasons? It has to be physically
 21 dropped off.
 22 Q. So you're saying there's a problem
 23 with getting things delivered from the Woodbridge
 24 Police Department to the New Jersey State Police
 25 lab?

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1 MR. RUBENSTEIN: Objection to form.
 2 You can answer.
 3 THE WITNESS: I wouldn't be able to
 4 answer that question. That would be
 5 better suited for Detective Quesada, who
 6 handles that.
 7 BY MR. SEXTON:
 8 Q. But are you aware of any problems --
 9 A. I'm not aware of any problems.
 10 Q. Where is the lab, do you know?
 11 A. I don't -- I don't know.
 12 MR. SEXTON: I think we're up to C.
 13 (Plaintiff's Exhibit C was marked
 14 for identification purposes.)
 15 BY MR. SEXTON:
 16 Q. Do you recognize -- this is a
 17 four-page document. Do you recognize this?
 18 A. Yes.
 19 Q. What do you recognize it as?
 20 A. It's my supplemental report.
 21 Q. So there was a prior report?
 22 A. This is No. 4, so there would be three
 23 prior to that. Not mine, just in sequence.
 24 Q. But by you -- oh, so it says report
 25 number at the top --

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1 A. Yeah.
 2 Q. -- 4, is that what you're referring
 3 to?
 4 A. Yes.
 5 Q. So this is the fourth report on this
 6 matter or the fourth report of yours?
 7 A. The fourth report on the matter.
 8 Q. Okay. So is this your first and main
 9 report?
 10 A. Yes.
 11 Q. All right. When did you make this
 12 report?
 13 A. It's dated February 4, 2019.
 14 Q. And it says, "Approved." Who approved
 15 it?
 16 A. Sergeant Penicaro.
 17 Q. When you issued this report, did you
 18 check with Detective Quesada about the status of
 19 the evidence, the fingerprint evidence?
 20 A. The status of it?
 21 Q. Yeah.
 22 A. No.
 23 Q. The report says in the middle that
 24 "Detective Quesada processed the inside of the
 25 vehicle for fingerprints and several were lifted."

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1 Do you see that?
 2 A. Yes.
 3 Q. When you wrote -- so he lifted the
 4 prints on the 26th, the day that you guys
 5 responded there, correct?
 6 A. Yes.
 7 Q. And you're writing this report how
 8 many days later... 11 days later.
 9 Do you know by 11 days later whether
 10 he had sent those prints to be processed -- to the
 11 lab to be reviewed?
 12 A. I don't recall.
 13 Q. In your report you note evidence on
 14 page 2 -- who found the Dunkin' Donuts receipt?
 15 A. Detective Quesada.
 16 Q. Okay. Did you look at that receipt?
 17 A. Yes.
 18 Q. Okay.
 19 MR. SEXTON: And let me mark that.
 20 (Plaintiff's Exhibit D was marked
 21 for identification purposes.)
 22 BY MR. SEXTON:
 23 Q. Do you recognize this as the receipt?
 24 A. Yes.
 25 Q. Okay. So that's -- it's got a

Pages 57 to 60

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1 (914)297-9042 number, right?
 2 A. Yes.
 3 Q. And that was traced back to a Dunkin'
 4 Donuts in the Bronx, correct?
 5 A. Yes.
 6 Q. At 47 East Gun Hill Road, Bronx, New
 7 York 10467?
 8 A. Sounds like the one, yeah.
 9 Q. And that is dated -- It's the same
 10 date, January 26th, and the time looks to be
 11 5:11:22 in the morning, right?
 12 A. Yes.
 13 Q. So did you draw any conclusions from
 14 the presence of this receipt in that vehicle?
 15 A. Any conclusions? I contacted that Dunkin'
 16 Donuts to see if they had video available.
 17 Q. Okay. Is it fair to say that, based
 18 upon the presence of this receipt in the vehicle,
 19 that there appeared to be a connection with the
 20 Bronx and a suspect?
 21 A. Could have been.
 22 Q. The rental car had been in his
 23 possession for the entire day, had it not?
 24 A. Yes.
 25 Q. There wasn't another renter who had

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1 the car --
 2 A. No.
 3 Q. -- at 5:11 --
 4 A. But I'm not --
 5 Q. -- in the morning, right?
 6 A. I'm sorry. I didn't mean to interrupt.
 7 Q. Right?
 8 A. Right.
 9 MR. SEXTON: We're going to mark
 10 this as E.
 11 (Plaintiff's Exhibit E was marked
 12 for identification purposes.)
 13 BY MR. SEXTON:
 14 Q. Do you recognize this document marked
 15 as E for identification purposes?
 16 A. This is an identification report.
 17 Q. And what is that?
 18 A. Usually when they submit fingerprints to
 19 the lab. It's a receipt.
 20 Q. Who's the ID detective's signature
 21 below, if you recognize it?
 22 A. It says identification made by -- the
 23 signature, I can't make that out. I don't know
 24 who that is. Just by those scribbles I can't
 25 tell.

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1 Q. Okay. Now, the date in the top left,
 2 the date is January 26, 2019. What does that date
 3 refer to?
 4 A. The date of the incident.
 5 Q. And it says, "Alarm #." What's an
 6 alarm number?
 7 A. That would be your case number.
 8 Q. And then it says, "Suspect's Name:
 9 Walker, Barrington A," and gives his address and
 10 date of birth. What does that indicate?
 11 A. The match to the fingerprint. Was it a
 12 fingerprint or...
 13 Q. It says result of AFIS submission.
 14 What is AFIS?
 15 A. AFIS is Automated Fingerprint
 16 Identification System.
 17 Q. Latent fingerprint JMQ-2, what is
 18 that, do you know?
 19 A. I don't.
 20 Q. And then it says left palm finger. I
 21 guess that's -- we can all understand that.
 22 Do you know Detective Douglas Cioni?
 23 A. I do.
 24 Q. And who is he?
 25 A. He's an identification detective.

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1 Q. And how about Lieutenant J. Velez?
 2 A. Currently he's the Internal Affairs
 3 lieutenant, but he was in Identification Bureau as
 4 well.
 5 Q. Now, these dates of -- all the other
 6 dates are January 22, 2021.
 7 What does that date signify?
 8 A. I don't know.
 9 Q. Are you used to dealing with these
 10 reports?
 11 A. No.
 12 Q. You don't use these reports in your
 13 investigations?
 14 A. No. This is identification report done by
 15 the Identification Bureau.
 16 Q. It has a narrative. It says,
 17 "The above listed individual was supplied by...
 18 AFIS." There was a hit and it was, quote, an
 19 exact match with the left palm impression of
 20 Barrington, Walker.
 21 So this is not the type of report
 22 that you regularly use in your investigations?
 23 A. As a regular detective, I don't use this.
 24 This is from the Identification Bureau.
 25 Q. Do you know what happens to these?

Pages 61 to 64

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1 A. They get -- currently now they get uploaded
2 onto the system.
3 Q. Do you know when that started?
4 A. I don't know the exact year.
5 Q. Do you know -- there's a handwritten
6 scribble next to Velez's line. It appears to be
7 GSV 332 to me.
8 Do you know what that means?
9 A. It's -- I think it's his initials because I
10 believe that's JSV.
11 Q. Oh, right.
12 A. And 332 is his badge number.
13 Q. Okay. Got it.
14 MR. SEXTON: What is this, F?
15 (Plaintiff's Exhibit F was marked
16 for identification purposes.)
17 BY MR. SEXTON:
18 Q. Do you recognize this document?
19 A. Yes.
20 Q. What do you recognize it as?
21 A. This is a DNA lab report from the State
22 Police.
23 Q. Is this the type of report that you
24 regularly use in your investigations?
25 A. No. This is something that the ID Bureau

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1 sends out or receives back from the lab.
2 Q. So this would not be part of your file
3 or anything you'd ever review --
4 A. It would be part of my file, yes, but this
5 is not something I would generate. This is all
6 done by the Identification Bureau.
7 Q. So when it becomes part of your file,
8 would you use it in your investigation?
9 A. Yes.
10 Q. Okay. And going back to Exhibit E,
11 the fingerprint, left palm fingerprint report,
12 would this go into your file?
13 A. Yes.
14 Q. And would it be something you would
15 rely upon in your investigation?
16 A. Yes.
17 Q. Okay. The only date on this is
18 October 18, 2019. Do you see that, date of
19 report?
20 A. Yes.
21 Q. Is there anywhere on here where it
22 indicates when the evidence was submitted to the
23 lab for a report?
24 A. Not on this piece of paper.
25 Q. Do you know how long the DNA lab

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1 report -- DNA lab takes to turn around a sample?
2 A. It could take a long time.
3 Q. What's a long time?
4 A. It could be anywhere between six months to
5 over a year.
6 Q. Is there any way to expedite the
7 testing of a sample?
8 A. No.
9 Q. Is there any other lab that you can
10 use other than the New Jersey State Police Office
11 of Forensic Sciences?
12 A. I know that's what my department uses. I
13 don't deal with the lab ever as my day-to-day job.
14 That would be the Identification Bureau. I don't
15 know of any other lab.
16 MR. SEXTON: I'll show you what's
17 been marked as G.
18 (Plaintiff's Exhibit G was marked
19 for identification purposes.)
20 BY MR. SEXTON:
21 Q. Do you recognize G?
22 A. Yes.
23 Q. What do you recognize it as?
24 A. This is a CODIS Hit Notification.
25 Q. And this is for DNA sample from the

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1 scene at the Hampton Inn on the 26th of 2019?
2 A. Yes.
3 Q. And like the prior fingerprint hit, it
4 matched Barrington Walker, right?
5 A. Yes.
6 Q. Again, the date. So this says July
7 30th of 2021. Is there any -- and it has the
8 offense date, January 26, 2019.
9 Is there anything on this document
10 that indicates when this was submitted to the New
11 Jersey State Police?
12 A. No.
13 Q. So this is two-and-a-half years after
14 the sample was taken, right?
15 A. Yes.
16 Q. Have you ever heard of a lab taking
17 two-and-a-half years to do a -- run a sample?
18 A. This is the date that it got a hit, not the
19 date that they ran a sample.
20 Q. Well, don't you think they're related?
21 A. No.
22 Q. How so?
23 A. Because it could take years for somebody's
24 DNA to go into the system.
25 (Plaintiff's Exhibit H was marked

Pages 65 to 68

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1 for identification purposes.)
 2 BY MR. SEXTON:
 3 Q. Do you recognize Exhibit H?
 4 A. I do.
 5 Q. Okay. This is another ID -- actually,
 6 there's two bureau reports here, right?
 7 A. I wouldn't be able to answer this question
 8 because Detective Quesada would be better suited
 9 to answer this. I don't know if it's one report
 10 or two.
 11 Q. Okay. Before you told us that the
 12 date on the top left is the date of the incident?
 13 A. Yes.
 14 Q. And then there's a date at the bottom
 15 and that's the same date?
 16 A. Yes.
 17 Q. So would this confirm that all this
 18 evidence was taken on that same day?
 19 A. Yes.
 20 Q. On the first page it says, "Items
 21 processed for latent prints - Glass Door."
 22 What is SAA under the Location
 23 column?
 24 A. I would say same as above.
 25 Q. Oh, okay. It says, "All property,"

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1 and I think -- it says, "abd." "All property and
 2 CD's."
 3 What CDs?
 4 A. I don't know.
 5 Q. Now, the end of the narrative, second
 6 page, says, "All property prepared for evidence or
 7 DNA analysis." Then it says, "JMQ 1, 2, 3, 12,
 8 13, 14, 15, 16 was sent to AFIS."
 9 Do you know what JMQ is?
 10 A. That's Detective Quesada's initials.
 11 Q. Oh, okay. And what do those numbers
 12 refer to, do you know?
 13 A. I don't. He would be able to answer that.
 14 Q. And then this is dated, again, the
 15 26th. Is it your impression that this
 16 was -- indicates that this evidence was sent to
 17 the lab on that date, the 26th?
 18 A. I would let him answer that question. I
 19 wouldn't know that answer.
 20 Q. Have you talked to Quesada about this
 21 matter at all?
 22 A. No.
 23 (Plaintiff's Exhibit I was marked
 24 for identification purposes.)
 25 BY MR. SEXTON:

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1 Q. Do you recognize I?
 2 A. Yes.
 3 Q. Okay. What do you recognize it as?
 4 A. This is a request to the lab for the
 5 fingerprint.
 6 Q. Okay. Who's making the request,
 7 submitting agency and addressee?
 8 A. Detective Quesada.
 9 Q. Where do you see his --
 10 A. JMQ. He labels his exhibits as his
 11 initials.
 12 Q. Do you see anything on this that
 13 indicates what date this was submitted? Do you
 14 see where it says delivered by?
 15 A. Yes.
 16 Q. And do you recognize --
 17 A. Receipt by. I see it. I can't make out
 18 that.
 19 Q. Is that 2/8/19?
 20 A. That's what it looks like. It's hard to
 21 read, though.
 22 Q. Do you know why it would have taken 11
 23 days for this to be delivered from Woodbridge to
 24 Holmdel, which is about 20 miles away?
 25 A. I don't.

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1 Q. And by the 8th, the plaintiff in this
 2 matter had already been charged and arrested and
 3 in prison, correct?
 4 A. Yes.
 5 (Plaintiff's Exhibit J was marked
 6 for identification purposes.)
 7 BY MR. SEXTON:
 8 Q. Exhibit J is a five-page document. Do
 9 you recognize it?
 10 A. It appears to be a fingerprint card.
 11 Q. And what's a fingerprint card?
 12 A. It's something done with ink and paper,
 13 where you roll a finger onto the paper.
 14 Q. It has Barrington Walker's name up
 15 top, right?
 16 A. Yes.
 17 Q. And it has an FBI number up there?
 18 A. Yes.
 19 Q. What's an FBI number?
 20 A. FBI number is an identification number that
 21 we all have individually.
 22 Q. Really?
 23 A. Yeah.
 24 Q. And then what's the -- do you see on
 25 the bottom of the first page there's a number C7

Pages 69 to 72

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1 46DN_Holmdel 02-14 - the first page. Here.
 2 Do you know what that refers to?
 3 A. No, I don't.
 4 Q. The second page has the same thing.
 5 It's the C746DN_Holmdel, and then it has a date,
 6 2/14/2019 at 8:45:33?
 7 A. I don't know what that is.
 8 Q. The third page -- so this page has
 9 a -- yeah, turn it on the side. It says,
 10 "Workstation: NJSPWSholmdel1."
 11 So would that be the State Police lab
 12 in Holmdel?
 13 A. Yeah. There's a State Police lab in
 14 Holmdel.
 15 Q. And the Exhibit I was the delivery of
 16 the prints to Holmdel, correct? Submitted At, you
 17 see there's a...
 18 A. Yeah, it says Holmdel.
 19 Q. So that looks like this was submitted
 20 on the 14th. And if you look at this document,
 21 this document being J, that the results were made
 22 on the 13th. And this report generated on the
 23 14th indicated that the prints belonged to
 24 Barrington Walker.
 25 Does that seem right to you?

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1 A. Again, this is all something I don't deal
 2 with. So I think Detective Quesada would be
 3 better suited to answer these questions as far as
 4 delivery dates and -- I don't want to speak for
 5 him.
 6 Q. So my understanding, looking at these
 7 two, is that it took them six days to do the assay
 8 and to determine if the prints belonged to
 9 Barrington Walker. Do you have any basis to think
 10 I'm misreading this?
 11 A. No, but I don't know. You would have to
 12 ask Detective Quesada.
 13 Q. A six-day turnaround, does that seem
 14 about average to you for prints going to a lab?
 15 A. I don't know their procedure, sir.
 16 MR. SEXTON: Do we want to take a
 17 break for lunch at some point?
 18 MR. RUBENSTEIN: I have some
 19 questions I have to ask him, so you can
 20 take lunch, if you'd like.
 21 MS. LEMPKA: Whatever you guys want
 22 to do.
 23 MR. SEXTON: Want to take a half
 24 hour?
 25 MR. RUBENSTEIN: Half hour's fine.

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1 (A recess was taken from 12:41 to
 2 you 1:30 p.m.)
 3 (Plaintiff's Exhibit K was marked
 4 for identification purposes.)
 5 BY MR. SEXTON:
 6 Q. I'm showing you Exhibit K. Do you
 7 recognize this?
 8 A. The DNA request by Detective Quesada.
 9 Q. Okay. The only date on this is the
 10 1/26/2019. Am I missing a date somewhere else?
 11 A. No, I don't see one.
 12 Q. So is this -- can you tell when this
 13 was submitted?
 14 A. I can't.
 15 Q. Is this a form?
 16 A. I don't know -- it looks like a Word
 17 document. I mean... But, again, I would like
 18 Detective Quesada to answer this.
 19 Q. So it says, "Suspects: Unknown."
 20 So this would have had -- is it fair to say this
 21 would have had to have been written prior to
 22 Nijeer -- the plaintiff becoming the suspect?
 23 A. I don't know.
 24 Q. Because all the other reports that are
 25 issued afterward, they list Parks as the suspect.

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1 A. Okay.
 2 (Plaintiff's Exhibit L was marked
 3 for identification purposes.)
 4 BY MR. SEXTON:
 5 Q. I'm showing you Exhibit L. Do you
 6 recognize these pictures?
 7 A. Yes. It's the shoe and the water bottle
 8 retrieved from the Hampton Inn.
 9 Q. So were these pictures taken by
 10 Detective Quesada?
 11 A. Yes.
 12 Q. Okay. Fair to say that that seems to
 13 indicate that's a ruler next to the shoe?
 14 A. Yes.
 15 Q. It seems to indicate a size 12 shoe or
 16 13?
 17 A. I don't know. I mean...
 18 Q. Roughly the size of the ruler, would
 19 you agree?
 20 A. It says 12, but I don't know how it's
 21 measured. I would ask Detective Quesada that
 22 question.
 23 Q. Did you ever handle the sneaker or see
 24 it at any point?
 25 A. I saw it. I didn't handle it.

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1 Q. When did you see it?
 2 A. When we arrived at the scene.
 3 Q. Did you ever see it when it was in the
 4 evidence -- where is the evidence kept?
 5 A. In a lab inside the Detective Bureau. Only
 6 accessed from the detectives from ID Bureau.
 7 Q. From the ID Bureau?
 8 A. Yes, sir.
 9 Q. Did you ever try to match the sneaker
 10 to -- when you brought in Parks, was the sneaker
 11 ever matched to him?
 12 MR. RUBENSTEIN: Objection to form.
 13 Go ahead. You can answer.
 14 THE WITNESS: I was not working that
 15 day. I've never seen Nijeer Parks.
 16 BY MR. SEXTON:
 17 Q. But do you know if anybody tried to
 18 match the sneaker to the suspect?
 19 A. I don't know, no.
 20 Q. Would you agree that would have been
 21 an intelligent thing to do?
 22 A. Well, I don't know where the sneaker was at
 23 the time. Was it submitted to a lab? I don't
 24 know those answers. Those are better suited for
 25 Detective Quesada. Was it available at the time

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1 that Nijeer Parks was there? I don't know.
 2 Q. But assuming it was, as you just
 3 testified, in the Detective Bureau, being
 4 maintained by the ID detectives, would it have
 5 been intelligent to try to match that sneaker to
 6 Nijeer Parks when you had him in custody?
 7 MR. RUBENSTEIN: Objection to form.
 8 You can answer.
 9 THE WITNESS: Yeah. Again, this
 10 would be better suited for Detective
 11 Quesada to answer.
 12 BY MR. SEXTON:
 13 Q. But obviously your common sense --
 14 you're a detective, not a layperson. Would it
 15 have been -- like Cinderella, does this slipper
 16 fit? You have the sneaker of the suspect. Does
 17 it fit the guy we brought in?
 18 MR. RUBENSTEIN: Objection to the
 19 form.
 20 BY MR. SEXTON:
 21 Q. Doesn't seem to require special
 22 training or anything, just sort of common sense.
 23 Would you agree, from a common sense perspective,
 24 it would make sense to make sure the shoe fit.
 25 What did they say during the OJ trial? If the

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1 glove fits, you must acquit. So, if the shoe
 2 fits, you gotta let him go, right? If it doesn't
 3 fit, you have to let him go?
 4 A. I think from the common sense aspect, yes,
 5 it makes sense. I don't know how to answer that
 6 question any better than that.
 7 (Plaintiff's Exhibit M was marked
 8 for identification purposes.)
 9 BY MR. SEXTON:
 10 Q. Do you recognize this?
 11 A. Yes.
 12 Q. What do you recognize it as?
 13 A. This is the CJIS 2000 Response.
 14 Q. What's CJIS?
 15 A. I don't know what the acronym stands for
 16 off the top of my head. But it's usually when
 17 you've run a criminal history request, it will
 18 list where this specific person has a criminal
 19 history in. In this particular case, Mr. Walker
 20 has a criminal history in Florida and Maine and
 21 with the FBI.
 22 Q. Does this indicate who asked for this
 23 report?
 24 A. I don't see any identifiers on this piece
 25 of paper that would identify a specific detective.

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1 Q. It says, "Inquiry Date, February 14,
 2 2019." That seems to match the date on...
 3 Fingerprint, Exhibit J. I read it as indicating
 4 that there had been a search -- a hit on
 5 February 14, 2019. Both J and M indicate that
 6 evidence matches a guy named Barrington Walker,
 7 right?
 8 A. Yes.
 9 Q. And this CJIS 2000 Response gives us a
 10 black male born in 1993. He's 6' 1" and 180
 11 pounds, right?
 12 A. Yes.
 13 Q. Do you know Nijeer Parks' height and
 14 weight?
 15 A. It's got to be in the report somewhere. In
 16 his DMV -- off the top of my head -- to answer
 17 your question, off the top of my head, I don't.
 18 Q. If I told you that he was 5' 7", would
 19 that refresh your recollection?
 20 A. Okay.
 21 Q. And do you know Nijeer's foot size?
 22 A. I don't.
 23 Q. Shoe size?
 24 A. I do not.
 25 Q. If I told you 9-and-a-half, size

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1 9-and-a-half --
 2 A. Okay.
 3 Q. -- would that refresh your
 4 recollection or --
 5 A. No.
 6 Q. Do you know what these miscellaneous
 7 numbers are? It looks like two documents AR and
 8 FN.
 9 A. I don't.
 10 (Plaintiff's Exhibit N was marked
 11 for identification purposes.)
 12 BY MR. SEXTON:
 13 Q. Is this the -- well, do you recognize
 14 this?
 15 A. Yes.
 16 Q. What do you recognize this as?
 17 A. It's a Motor Vehicle Consent to Search
 18 form.
 19 Q. Did this allow you to search the car
 20 that was used in the attempted assault?
 21 A. Yes.
 22 Q. And did you fill this out?
 23 A. I did.
 24 Q. Okay. And is that Michael Jones?
 25 A. Dones.

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1 Q. Okay. And was he -- who is he?
 2 A. He's the manager for the Hertz rental
 3 place.
 4 Q. So I guess the vehicle was searched
 5 the next day, the 27th?
 6 A. Yes.
 7 MR. SEXTON: This is O.
 8 (Plaintiff's Exhibit O was marked
 9 for identification purposes.)
 10 BY MR. SEXTON:
 11 Q. You have Exhibit O before you. Do you
 12 recognize that?
 13 A. Yes.
 14 Q. What do you recognize it as?
 15 A. It's a Request For Facial Recognition
 16 Technology submitted to New York State
 17 Intelligence Center.
 18 Q. It says, "Requestor Name: Santiago
 19 Tapia," correct?
 20 A. Yes.
 21 Q. That's you, right?
 22 A. Yes.
 23 Q. The narrative on the second page was
 24 written by you?
 25 A. Yes.

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1 Q. And then it references the Gun Hill
 2 Road Dunkin' Donuts, right, in the Bronx?
 3 A. Yes, sir.
 4 Q. And -- did you submit it to New York
 5 because of that Bronx connection?
 6 A. Yes.
 7 Q. Had you ever interacted with the
 8 New York State Intelligence Center prior to this?
 9 A. No.
 10 Q. How did you know of the existence of
 11 the New York State Intelligence Center?
 12 A. This was also a tool I learned of when I
 13 was with the Auto Theft Task Force.
 14 Q. How did the Auto Theft Task Force use
 15 the services of the NYSIC?
 16 A. They used for requests as far as facial
 17 recognition. And also they have the means to run
 18 LPR checks, which was highly used in that unit.
 19 Q. What's an LPR check?
 20 A. License plate reader.
 21 Q. How does that work?
 22 A. So there's license plate readers that are
 23 affixed to some police cars. Also, they're
 24 affixed to the poles at intersections. They're
 25 also affixed to bridges and tunnels leading to and

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1 from New York City. And they read license plates,
 2 time stamp them, and they take a picture of the
 3 vehicle.
 4 Q. So you did not request an LPR check,
 5 though?
 6 A. No.
 7 Q. Why not?
 8 A. I have my own means of doing that now. I
 9 have access to what's called Vigilant, so I did
 10 not need their assistance in doing so.
 11 Q. Did you do an LPR search for the
 12 plates on this vehicle?
 13 A. I don't recall.
 14 Q. Could you check your records? Because
 15 no LPR search has been produced. So could you
 16 check wherever such a search -- record search
 17 would be?
 18 A. I don't know how I would be able to do that
 19 unless I go through my file and see if I did one,
 20 if I bring something up. But if I did, I would
 21 have produced it.
 22 Q. But you do that through a service or
 23 something. They must have a record of all the LPR
 24 searches you ever made.
 25 A. Yeah, I don't know how I would be able to

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1 get a hold of that.
 2 Q. Did you do it through the department
 3 or do that independently, like on a machine at
 4 home or something?
 5 A. No, it's through the department, but it's
 6 accessed -- and I was given access by the State
 7 Police through this software.
 8 Q. So you probably have a user number
 9 that you could access?
 10 A. Yes.
 11 Q. Couldn't you get a printout of all the
 12 LPR searches you've done?
 13 A. I don't know.
 14 MR. SEXTON: I would ask your
 15 attorney to try to...
 16 MR. RUBENSTEIN: No problem.
 17 BY MR. SEXTON:
 18 Q. Toll Analysis, does that go through
 19 like all the EZPass, whatever things where a car
 20 would have gone?
 21 A. I would assume so. I've never used that
 22 before.
 23 Q. Social Media Checks, what's that?
 24 A. I've never used that either.
 25 Q. Mapping Request?

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1 A. I don't know what that is.
 2 (Plaintiff's Exhibit P was marked
 3 for identification purposes.)
 4 BY MR. SEXTON:
 5 Q. The document that's been marked as
 6 Exhibit P, do you recognize this?
 7 A. It's a report from Rockland County
 8 Intelligence Center.
 9 Q. Have you seen this before?
 10 A. Yes.
 11 Q. When did you see it?
 12 A. It was sent to me.
 13 Q. On page 3 it says, RCIC provided all
 14 information to the NJ PIP -- what is that,
 15 Palisades?
 16 A. Palisades Interstate Parkway.
 17 Q. -- and Woodbridge PD.
 18 What's the Palisades police have to
 19 do with this?
 20 A. There was an individual assigned to the New
 21 York State Intelligence Center -- or Rockland
 22 County Intelligence Center, sorry, who was on loan
 23 from the PIP police department.
 24 Q. It says, "See attached PDF and flier."
 25 Do you know what that means?

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1 A. No.
 2 Q. Do you remember an attachment to this,
 3 an attached PDF and flier?
 4 A. I don't recall.
 5 Q. Do you remember when you received
 6 this?
 7 A. It's dated January 28, '19.
 8 Q. Looking at the first page where it
 9 says Disposition or...?
 10 A. When Reported.
 11 Q. 1/28/19?
 12 MR. SEXTON: Q.
 13 (Plaintiff's Exhibit Q was marked
 14 for identification purposes.)
 15 BY MR. SEXTON:
 16 Q. Exhibit Q, this is a series of
 17 e-mails. Do you remember e-mailing Investigator
 18 Lyons?
 19 A. Yes.
 20 Q. How did you come to be exchanging
 21 e-mails with Investigator Lyons?
 22 A. He reached out to us. Specifically the
 23 sergeant that was on duty at the time, that he did
 24 reach out to Woodbridge Police Department,
 25 contacted me. He took down Seamus Lyons's

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1 information and his e-mail address, or gave him my
 2 e-mail address. That's how we got into contact.
 3 Q. The first in this line is from him to
 4 you, and that's January 28, '19, at 8:48 a.m. it
 5 says, "See attached PDF regarding your PD police
 6 information flier aggravated assault..."
 7 What is this PD -- police information
 8 flier aggravated assault? Do you know what that
 9 refers to?
 10 MR. RUBENSTEIN: Go to the second
 11 page of the e-mail document.
 12 THE WITNESS: Yeah, I don't recall
 13 what that was.
 14 BY MR. SEXTON:
 15 Q. Did you create some kind of a flier or
 16 information thing to circulate?
 17 A. I did. Prior to being in contact with them
 18 I did reach out.
 19 Q. Okay.
 20 MR. SEXTON: I don't think that's
 21 been produced so if you can make a search
 22 and get that to me.
 23 MR. RUBENSTEIN: Yup.
 24 THE WITNESS: No problem. That's a
 25 track flier that I sent out.

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1 MR. RUBENSTEIN: Okay.
 2 BY MR. SEXTON:
 3 Q. Do you know whether this was the first
 4 of the e-mails or whether you had prior e-mail
 5 communication between you and Seamus Lyons?
 6 A. No, this is it.
 7 Q. Okay. Did you have any telephone
 8 conversations with either Investigator Lyons or
 9 Officer Dey, or Sergeant Dey.
 10 A. I did speak to Seamus Lyons after the fact
 11 to see if he can send me any further
 12 documentation, anything else that they can produce
 13 from their office.
 14 Q. The Re: line here is "Aggravated
 15 Assault on a Police Officer."
 16 Is it fair to say that you were
 17 highly motivated to track down a person who had
 18 attempted to assault Officer Lee?
 19 A. That's how I labeled the flier.
 20 Q. Right. But --
 21 A. You have to label the flier as to, like,
 22 what the most serious offense was.
 23 Q. Okay. And that would -- of the crimes
 24 charged, that's the most serious?
 25 A. Yes.

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1 Q. What's the second most serious after
 2 that, do you remember?
 3 A. Possession of a weapon.
 4 Q. Then the next exchange is from Seamus
 5 Lyons to you, "Excellent" -- you respond and say,
 6 "That's him. Thank you and Sergeant Dey for your
 7 help."
 8 How did you know -- why did you say
 9 that to him?
 10 A. When I received the -- Mr. Parks's DMV
 11 picture and what they sent out, I called Officer
 12 Lyszk up to the Detective Bureau and had him look
 13 at the DMV photo.
 14 Q. Okay. What did Lyszk say when he
 15 looked at the photo?
 16 A. He said he was 100 percent sure that was
 17 the person he dealt with.
 18 Q. Did you do anything else before you
 19 made that response?
 20 A. I don't recall. I know the first thing I
 21 did was call Officer Lyszk to come into the
 22 Detective Bureau.
 23 Q. The e-mail from Seamus comes in at
 24 8:40, and you respond at 9:16, so just over a half
 25 hour later. So there's not a whole lot of time.

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1 Is it probable that the only thing you did was
 2 reach out to Lyszk and have him look at it in that
 3 half hour?
 4 A. It's possible, yeah.
 5 Q. You don't remember now, as you sit
 6 here, doing anything else in that half hour?
 7 A. I don't recall.
 8 Q. So then you get an e-mail from Seamus
 9 saying, "Excellent," exclamation, exclamation,
 10 exclamation, exclamation, exclamation,
 11 exclamation, exclamation, exclamation,
 12 exclamation, exclamation mark. "How is the
 13 officer. Is he okay?"
 14 You say, "Yes, he's fine." Actually
 15 your Re: line says, "Aggravated Assault on a
 16 Police Officer." It wasn't an aggravated assault,
 17 it was an attempted aggravated assault, right?
 18 A. No, it's an aggravated assault.
 19 Q. Even if you don't --
 20 A. Yeah. Because he had the intent.
 21 Q. Well, then -- okay. I'm not going
 22 to -- so if you intend to assault somebody --
 23 A. Yes.
 24 Q. -- but you don't -- you miss --
 25 A. Yes.

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1 Q. -- you're guilty of the --
 2 A. Aggravated assault.
 3 Q. Oh. Then you ask -- you say, "Yes,
 4 he's fine." And then you ask, "How did you guys
 5 ID him. Facial recognition through NYSIC or the
 6 ROIC?"
 7 And Seamus answers, "Good news," I
 8 guess that Lee's fine. "Yes, I used facial
 9 recognition software but altered the photo on the
 10 license a little to get the pixels clear."
 11 Did that concern you when Seamus told
 12 you that he had altered the photo in order to get
 13 the hit?
 14 A. No, because there's hieroglyphics on the
 15 driver's license. And that's the way I perceived
 16 it as, is that he took the hieroglyphics off.
 17 He --
 18 Q. That doesn't say that there, though,
 19 does it?
 20 MR. RUBENSTEIN: Let him finish his
 21 answer.
 22 Please finish.
 23 THE WITNESS: No, it didn't concern
 24 me.
 25 BY MR. SEXTON:

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1 Q. You're mentioning hier -- what about
 2 hieroglyphics on a...?
 3 A. There were hieroglyphics on the driver's
 4 license.
 5 Q. Which driver's license?
 6 A. The Tennessee driver's license.
 7 Q. Can you point to anything in this
 8 e-mail that indicates it was the hieroglyphics?
 9 A. No.
 10 Q. He says he altered it to get the
 11 pixels clear.
 12 Did you ask him what he meant by
 13 that?
 14 A. No.
 15 Q. It says, "Got a high number hit."
 16 What does that mean?
 17 A. Those computers are never 100 percent.
 18 Q. Is it -- are these hits done on a 100
 19 percentage basis?
 20 A. No. That would be a better question for
 21 them. But the way that it was explained to me
 22 when I was with the Auto Theft Task Force, is that
 23 they never hit 100. It's always a
 24 99-point-something. But I can't say for --
 25 Q. So there's presumably zero or not a

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1 hit at all? When you said it's always 99.9 --
 2 A. Not it's not always -- you know what I
 3 mean, when they say high probability, it's always
 4 99-point-something. The way it was explained to
 5 me -- I don't work the software, I've never worked
 6 the software, so I don't know how it works.
 7 That's the way it was explained to me.
 8 Q. Okay. Then he says, "We have facial
 9 recognition here at Rockland County Intel Center."
 10 So you had made a page, a hit from
 11 Rockland county, right?
 12 A. Yes.
 13 Q. Do you know when you got Exhibit P?
 14 A. It's dated on the 28th.
 15 Q. And that's the day you have in this
 16 e-mail exchange, correct?
 17 A. Yes.
 18 Q. Did you get the -- was this an
 19 attachment to one of these e-mails from Seamus or
 20 something else?
 21 A. I don't know if there was an attachment or
 22 it was sent directly to the Detective Bureau.
 23 Q. Okay. I mean, he ends with, "Keep my
 24 info and if you need anything in the future, call
 25 or e-mail."

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1 Did you ever use him after this?
 2 A. No.
 3 Q. Why not?
 4 A. I never had to.
 5 (Plaintiff's Exhibit R was marked
 6 for identification purposes.)
 7 BY MR. SEXTON:
 8 Q. Do you recognize this as Officer
 9 Lyszk's report?
 10 A. Yes.
 11 MR. RUBENSTEIN: Mind my asking if
 12 he knows if there's more than one report
 13 for Officer Lyszk? Because you said his
 14 report. I'm not sure if he only authored
 15 one.
 16 MR. SEXTON: Okay.
 17 BY MR. SEXTON:
 18 Q. Well, take a look at -- did Officer
 19 Lyszk issue multiple reports in this matter or
 20 one?
 21 A. I'd have to go through all the reports.
 22 MR. RUBENSTEIN: To cut to the
 23 chase, he did author more than one.
 24 MR. SEXTON: He did?
 25 MR. RUBENSTEIN: Yes.

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1 BY MR. SEXTON:
 2 Q. So this is one of the reports -- would
 3 you agree this is a report authored by Lyszk?
 4 A. Yes.
 5 Q. If you look at the narrative, is there
 6 anywhere in this narrative where Lyszk says he
 7 confirmed that this was the correct match?
 8 A. He writes in there the suspect was
 9 identified as Nijeer Parks, but he doesn't
 10 specify -- he doesn't elaborate on it.
 11 Q. Well, if you read that, the suspect
 12 was identified as Nijeer Parks by ROIC.
 13 MR. RUBENSTEIN: That's not what it
 14 says. It says the suspect was identified
 15 as Nijeer, period.
 16 MR. SEXTON: No, it says -- let's
 17 read it. So, "On January 27th he received
 18 notification from Investigator Seamus
 19 Lyons and Sergeant Dey that they had a
 20 high profile comparison to the picture on
 21 the fraudulent Tennessee driver's license.
 22 The suspect was identified as Nijeer
 23 Parks."
 24 I read this as saying Seamus and Dey
 25 identified him as Nijeer Parks. Do you

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1 share that understanding.
 2 THE WITNESS: No. Officer Lyszk
 3 identified him as Nijeer Parks.
 4 BY MR. SEXTON:
 5 Q. Well, where would he have gotten that
 6 name from?
 7 A. Because we had the DMV information with his
 8 picture.
 9 Q. But it came from Seamus Lyons.
 10 A. Right. But he identified him as being the
 11 person he dealt with at the Hampton Inn.
 12 Q. But that's --
 13 A. I can't speak --
 14 Q. But this doesn't say -- it says the
 15 suspect was identified as Nijeer Parks. That
 16 information didn't come from Lyszk, it came from
 17 Lyons and Dey, right?
 18 A. The information, yes. The identification
 19 came from Lyszk.
 20 Q. But he's not saying I confirmed that
 21 that was the man I saw anywhere in this.
 22 A. Okay. I'm not going to elaborate on his
 23 report. You can talk to him about it when he has
 24 his deposition. Officer Lyszk was the first one
 25 to see it. He identified Nijeer Parks 100 percent

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1 as the person he dealt with.
 2 Q. You agree it's not in this report?
 3 A. He wrote in there, "The suspect was
 4 identified as Nijeer Parks." I'm not going to add
 5 on to his report or speculate what he was thinking
 6 at the time.
 7 Q. Well, where does he say that I looked
 8 at the hit and I, based upon my present
 9 recollection, confirmed that that was the person?
 10 A. He doesn't put it in there. But you're
 11 writing the report for him, and I'm not going to
 12 do that for him.
 13 Q. Thank you.
 14 MR. SEXTON: I'm missing a report
 15 that I wanted to go over. Can we take a
 16 ten-minute break?
 17 (A recess was taken from 2:11 to
 18 2:18 p.m.)
 19 (Plaintiff's Exhibit S was marked
 20 for identification purposes.)
 21 BY MR. SEXTON:
 22 Q. Do you recognize this document marked
 23 as S?
 24 A. Yes.
 25 Q. What do you recognize it as?

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1 A. This is the request for facial recognition
 2 photo array from the ROIC, from me to the ROIC.
 3 Q. You sent this via e-mail?
 4 A. Yes. The e-mail that's underlined on the
 5 second paragraph.
 6 Q. Now, right underneath the heading it
 7 says, "If the NJ ROIC Facial Recognition
 8 Initiative produces a possible match, this should
 9 only be considered an investigative lead."
 10 Did you read this at the time that
 11 you sent this?
 12 A. Yes.
 13 Q. Were you aware of that?
 14 A. Yes.
 15 Q. "Further investigation is needed to
 16 confirm a possible match through other
 17 investigative corroborative information in our
 18 evidence."
 19 A. That's correct.
 20 Q. Okay. "Investigative lead, not
 21 probable cause to make an arrest," did you read
 22 that?
 23 A. Yes, sir.
 24 Q. In this case, the only basis for the
 25 probable cause and the warrant and the complaint

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1 was the possible match; isn't that correct?
 2 MR. RUBENSTEIN: Objection to form.
 3 THE WITNESS: No.
 4 BY MR. SEXTON:
 5 Q. What are the other bases?
 6 A. Positive identification with the officer
 7 that dealt with the person, Officer Lyszk.
 8 Q. Can you explain how that's an
 9 independent -- how that evidence is not merely the
 10 facial recognition hit?
 11 A. It's not. It's the positive identification
 12 with the officer who dealt with the person one on
 13 one.
 14 Q. Did you receive specific training for
 15 you -- what do you base that assertion on?
 16 A. It's an identification.
 17 Q. And has anybody ever told you that's
 18 an acceptable way to corroborate a hit?
 19 A. Yes.
 20 Q. Who told you?
 21 A. My 19-plus years on the job. If an officer
 22 identifies somebody, it's a positive
 23 identification.
 24 Q. This is the only time -- if I heard
 25 you correctly, this was the only time you ever

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1 used the facial recognition while at Woodbridge,
2 correct?
3 A. Yes.
4 Q. And I think you said you had done it
5 two or three times at the task force, if I
6 remember correctly?
7 A. I've done it a few times, but I've also
8 done it after this fact, yes.
9 Q. In your training at the task force, is
10 there anything that -- the only training you've
11 had with facial recognition is at the task force,
12 correct?
13 A. And at Woodbridge.
14 Q. So I missed that. So let's back up
15 then.
16 So there was training at the task
17 force on facial recognition, correct?
18 A. There was on-the-job training.
19 Q. Right.
20 A. Yes.
21 Q. And that was by one of the lieutenants
22 or somebody?
23 A. Yes, Lieutenant Pyrzanowski.
24 Q. Okay. And did he also give you
25 written materials?

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1 lineups was to screen out undue influence, bias,
2 et cetera, so that the identification is worth
3 something, right?
4 A. Yes. Yes.
5 Q. When you get a positive hit from the
6 software, are you aware of safeguards to prevent
7 the erroneous use of such a hit?
8 A. Sure.
9 Q. Okay. And what are some of those
10 safeguards?
11 A. If it was a witness, a civilian witness, I
12 would have done a photo array in that
13 circumstance. A police officer, totally different
14 story.
15 Q. And what do you base that assertion
16 on?
17 A. Officer Lyszk dealt with him for over 20
18 minutes.
19 Q. But your distinction wasn't -- the way
20 you described the distinction was positing a
21 different standard for a police eye witness
22 testimony and civilian eye witness testimony.
23 So my question is, where do you get
24 that from?
25 A. We don't show lineups to police officers.

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1 A. No.
2 Q. Were you -- did you have to listen to
3 pod casts or anything on it --
4 A. No.
5 Q. -- or anything like that?
6 So is there anything that that
7 lieutenant at the task force told you that
8 would support your assertion that this was
9 independent corroborative evidence, if I correctly
10 understood?
11 MR. RUBENSTEIN: That what was
12 independent corroborative evidence?
13 BY MR. SEXTON:
14 Q. The manner in which you relied upon
15 Lyszk's ID of the reported hit.
16 A. How I relied on another police officer's
17 identification? I will do that every day. I
18 don't understand the question.
19 MR. RUBENSTEIN: That's okay.
20 MR. SEXTON: Okay. Let's try to...
21 BY MR. SEXTON:
22 Q. You understood we talked before about
23 lineups and how you do a photo array?
24 A. Yes.
25 Q. And you understood the science of

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1 The police officer who was conducting an
2 investigation dealt with this person over 20
3 minutes. He knows who he dealt with. I don't
4 have to do a photo lineup with him. It's kind of
5 a confirmatory ID at that point.
6 Q. And is it your assertion that lineups
7 are never used --
8 A. I never said never.
9 MR. RUBENSTEIN: Let him ask.
10 THE WITNESS: I'm sorry.
11 MR. SEXTON: That's okay.
12 BY MR. SEXTON:
13 Q. -- are never presented to law
14 enforcement officers?
15 A. If their witness is off duty, that's a
16 whole totally different story. He's working, he's
17 on duty, he's dealing with that person. His
18 investigation at the time. I get the hit back, I
19 talk to Officer Lyszk. I present him the photo
20 that comes in. He says he's 100 percent sure
21 that's the person he dealt with.
22 Q. So are you saying then that lineups
23 are never used for eye witness testimony of
24 on-duty law enforcement officers?
25 A. I've never done it. No.

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1 Q. So, in your opinion, they're never
2 used?
3 A. No.
4 Q. You've been trained in doing lineups?
5 A. Yes.
6 Q. Would you agree that the manner in
7 which Officer Lyszk identified the actor in that
8 photo that you showed to him lacked any of the
9 safeguards that are normally used in a lineup or
10 photo array?
11 A. Yes.
12 Q. Are you aware that Officer Lee also
13 made -- was asked to make an identification of
14 Nijeer Parks after he was arrested?
15 A. Yes.
16 Q. Okay. And do you know the
17 circumstances of that identification?
18 A. After reading his report, yes. I was not
19 present. I was not working that day.
20 Q. Okay. Would you agree that calling
21 Officer Lee in from his day off and leading him to
22 the holding room where plaintiff was handcuffed to
23 the rail also lacked the safeguards of a lineup or
24 photo array?
25 MR. RUBENSTEIN: Just object to the

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1 form.
2 You can answer.
3 THE WITNESS: Yes, but --
4 MR. RUBENSTEIN: Go ahead. Give
5 your answer.
6 THE WITNESS: Okay. So to a
7 civilian, I would say that would be highly
8 suggestive. To a police officer, no, not
9 at all.
10 BY MR. SEXTON:
11 Q. But none of the safeguards were there?
12 A. To a live lineup? No.
13 Q. Or -- yeah. There were no
14 similar -- like looking fellows, black guys in
15 their twenties with goatees lining up?
16 A. No.
17 Q. Plus he was handcuffed. That's
18 suggestive --
19 A. It's at least suggestive --
20 MR. RUBENSTEIN: Is there a
21 question?
22 BY MR. SEXTON:
23 Q. That's suggestive, isn't it, yes or
24 no?
25 A. To a civilian, yes. To a police officer

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1 who arrests people every day, handcuffs people
2 every day, navigates the booking area every day, I
3 don't think that's highly suggestive, no.
4 (Plaintiff's Exhibit T was marked
5 for identification purposes.)
6 BY MR. SEXTON:
7 Q. I can represent this is the transcript
8 of the statement of the plaintiff.
9 Have you read this before?
10 A. Yes.
11 Q. When did you read it?
12 A. Soon after it was produced.
13 Q. You read in the transcript that the
14 plaintiff said he had never been to Woodbridge
15 before --
16 A. Yes.
17 Q. -- that day.
18 Did that concern you?
19 A. No.
20 Q. Did you read that the plaintiff
21 asserted that he did not and never had, up to that
22 point, a driver's license?
23 A. Did that concern me, you ask?
24 Q. Yes. Did you read it?
25 A. Oh, I've read it, yes.

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1 Q. Did that concern you?
2 A. No.
3 Q. Did you read that he said he had an
4 alibi, he went to a basketball game in the morning
5 and he was at his mother's house in Paterson for
6 that entire day?
7 A. I read that, yes.
8 Q. Did that concern you?
9 A. No.
10 Q. He told you that his cousin drove him
11 to Woodbridge that day because he doesn't drive.
12 Did that concern you?
13 A. No, but can I... Detective Kondracki took
14 this statement. I never actually saw or spoke to
15 Nijeer Parks ever.
16 Q. Okay. I'm just asking.
17 So you read it shortly after?
18 A. I read it, yes.
19 Q. Did someone -- how did it come about
20 that you read it? Did you ask for it, was it
21 given to you?
22 A. So I was the lead detective, so Detective
23 Kondracki took the interview from Nijeer Parks.
24 Once it was transcribed, he turned that over to
25 me.

Pages 105 to 108

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1 Q. When he asserted -- you saw that he
2 asserted in his interview that he had knee surgery
3 for a torn ACL and meniscus several months before
4 that and was unable to run.
5 Did that concern you?
6 A. No.
7 Q. Because the -- now, we know it was
8 Barrington Walker who was the actual wrongdoer on
9 the 26th --
10 MR. RUBENSTEIN: I just want to
11 object to that. He hasn't been convicted
12 of anything yet. We don't know if
13 Barrington Walker has anything -- I'm just
14 saying we better be careful what we say.
15 BY MR. SEXTON:
16 Q. Okay. All the evidence, real
17 evidence, matches Barrington Walker, a 6-foot-1
18 African-American male who ran on that day, did he
19 not?
20 A. We don't know 100 percent. He's only a
21 suspect at this point.
22 Q. Now, you're careful.
23 MR. RUBENSTEIN: Well, Counsel, I
24 think since he hasn't been convicted, I
25 don't think it's right to say he's --

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1 MR. SEXTON: Of course. You're so
2 careful now.
3 MR. RUBENSTEIN: And I don't like
4 the snide comments. So why don't you just
5 stop and ask the questions and we'll get
6 out of here today.
7 MR. SEXTON: Sure.
8 BY MR. SEXTON:
9 Q. So the actor on the 26th at the
10 Hampton Inn, he ran and eluded custody, right?
11 A. Yes.
12 Q. He was halfway in cuffs, right?
13 A. Yes.
14 Q. And there were how many of you there
15 at the time?
16 A. It was Officer Lyszk and Officer Lee.
17 Q. So he outran two guys, jumped in the
18 car, and not consistent with someone who had
19 recent knee surgery?
20 A. Okay. You're right.
21 Q. Did you read in here that the
22 plaintiff had called the Hampton Inn and talked to
23 him about the incident before coming down to the
24 police station?
25 A. I did read that.

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1 Q. And that he asked you to call and look
2 at the video footage?
3 A. I read it.
4 Q. Did that seem unusual to you?
5 A. No.
6 Q. Does a guilty guy call the victim
7 normally in any of your investigations?
8 MR. RUBENSTEIN: Objection to the
9 form.
10 You can answer.
11 BY MR. SEXTON:
12 Q. In your experience?
13 A. No. But I don't even know how he knew to
14 call the Hampton Inn.
15 Q. I think he explains...
16 A. If he wasn't involved and he was never in
17 Woodbridge, how did he know to call the Hampton
18 Inn?
19 Q. I'm not sure if he says it here, but
20 he had called, I think, the department before,
21 when he thought he was arranging to come down to
22 the police headquarters to clear up the warrants
23 that was based on the mistaken identification.
24 And during those conversations, he got some of the
25 details about the incident.

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1 A. Okay. He doesn't specify who he spoke to,
2 and I highly doubt they would give any information
3 on an active investigation to somebody on the
4 phone.
5 Q. And did you see where the plaintiff
6 was looking forward to having his fingerprints
7 checked against the prints at the site?
8 A. Yeah. I read that.
9 Q. What's an NCIC warrant?
10 A. National Crime Information Center.
11 (Plaintiff's Exhibit U was marked
12 for identification purposes.)
13 BY MR. SEXTON:
14 Q. Do you recognize this?
15 A. I've never seen this.
16 Q. If you can grab C. It's your report.
17 In the narrative on the third page of the report.
18 A. Yes.
19 Q. In the second-to-last paragraph
20 beginning, "On January 27, 2019," you talk about
21 getting the report from Seamus Lyons. You say,
22 "I compared the photo on the fraudulent Tennessee
23 driver's license to Nijeer Parks' assigned New
24 Jersey driver's license number and it is the same
25 person."

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1 Nowhere do you reference there
2 Officer Lyszk making any contribution to this
3 process, correct?
4 A. That is correct.
5 Q. The next paragraph you describe
6 showing the picture to Michael Dones, the rental
7 car manager, right?
8 A. I showed him the Tennessee driver's license
9 picture.
10 Q. Okay. Why didn't you show him a
11 picture of Nijeer Parks?
12 A. I can't.
13 Q. Why not?
14 A. I would have to do a photo array with him.
15 Q. Why is that?
16 A. He's a civilian.
17 Q. So why didn't you do a photo array
18 with him?
19 A. At that point, I didn't think it was
20 necessary.
21 Q. How come you could show him the
22 Tennessee license without a photo array?
23 A. He already seen it. That's what the
24 suspect produced when he rented the car.
25 Q. But you weren't asking him was this

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1 what you were shown. You were asking him was this
2 the picture of the actor, correct?
3 A. On the driver's license, yes.
4 Q. You weren't asking him is this the
5 license that you saw?
6 A. No, I didn't say license.
7 Q. You asked, is this the person who --
8 the bad actor?
9 A. Right, because what I was getting at was
10 his verification techniques. Did he pay attention
11 to the person on -- the picture of the driver's
12 license with the person that he was dealing with
13 and what their procedures were to verify that.
14 Q. Explain again why you didn't do a
15 photo array with Mr. Dones.
16 A. I just didn't.
17 Q. So you didn't say I contacted
18 Middlesex County AP Natasi. He was the zone --
19 A. Yes, he was.
20 Q. -- prosecutor? And presented him with
21 the facts of the case and he authorized a warrant.
22 Now, this was done orally?
23 A. Yes.
24 Q. And was there any paperwork provided
25 to him?

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1 A. The warrant itself, when we generate it, we
2 have to submit it to the zone prosecutor.
3 Q. Did you have to first and then get it
4 authorized or you get a verbal authorization and
5 then generate it?
6 A. Verbal authorization. And then once you
7 generate it, you submit it to him and he -- either
8 he submits it to the Court or he sends it back to
9 you for any corrections, and then you submit it to
10 the Court.
11 Q. Do you know was this sent back to you
12 for any -- what happened in this instance?
13 A. Yeah, I don't recall that I had to do any
14 corrections.
15 MR. SEXTON: I'm sorry, I would like
16 you to make copies of this.
17 (Plaintiff's Exhibit V was marked
18 for identification purposes.)
19 BY MR. SEXTON:
20 Q. Is this the Affidavit of Probable
21 Cause that we were just talking about?
22 A. Yes.
23 Q. Okay. And you submitted one affidavit
24 for all of the charges, correct?
25 A. No. Officer Lyszk wrote his own complaint.

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1 Q. Was that submitted the same time as
2 yours?
3 A. Yes.
4 Q. At the end of your Affidavit of
5 Probable Cause you say, "I compared the photo on
6 the fraudulent Tennessee driver's license to
7 Nijeer Parks' real New Jersey driver's license and
8 it is the same person."
9 A. Correct.
10 Q. You don't make a mention of showing it
11 to Lyszk?
12 A. No, I did not.
13 Q. And you don't reference any ID
14 by -- oh, no, because the ID by Lee came after.
15 On your report, Exhibit C, do you
16 reference Lyszk's probable cause affidavit
17 A. I do or I don't?
18 Q. Do you? I may have missed it, but I
19 don't see it.
20 A. I don't think I did, no.
21 (Plaintiff's Exhibit W was marked
22 for identification purposes.)
23 BY MR. SEXTON:
24 Q. On Lyszk's -- what is Exhibit W?
25 A. I'm sorry?

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1 Q. What is Exhibit W?
2 A. Oh, W.
3 Q. Is that Lyszk's Affidavit of Probable
4 Cause?
5 A. Yes.
6 MR. RUBENSTEIN: Just for the
7 record, it's not the complete document.
8 That's page, I think, 11 of 13. That's
9 just one page of 13 for an entire
10 document, just so that the record is
11 clear.
12 MR. SEXTON: Although --
13 MR. RUBENSTEIN: It is an Affidavit
14 of Probable Cause. I'm not disputing
15 that.
16 MR. SEXTON: Lyszk's affidavit.
17 MR. RUBENSTEIN: I'm just saying
18 it's part and parcel of 12 other pages, I
19 believe.
20 BY MR. SEXTON:
21 Q. On the second page, the end of his
22 narrative, it says, "Detective Tapia received
23 notification from Lyons and Dey that they had a
24 high-profile comparison to the picture on the
25 fraudulent Tennessee driver's license. The

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1 suspect was identified as Parks."
2 Fair to say there's nothing in this
3 probable cause stating that Lyszk gave a positive
4 ID to that picture, correct?
5 A. Again, I can't speculate on what he wrote
6 or what he was thinking. This is his report.
7 Q. Just in plain English, is there
8 anything in this that says that he was asked by
9 you to review it and that he gave it a -- I think
10 your quote was that he said it's 100 percent?
11 A. Yes. All he says is, "The suspect was
12 identified as Parks."
13 Q. By Dey and Lyons?
14 A. It doesn't say that. He says, "The suspect
15 was identified as Parks."
16 Q. Did you do anything else in this
17 investigation after the arrest of plaintiff?
18 A. After the arrest?
19 Q. Yeah.
20 A. I don't recall anything.
21 Q. Who was the lead detective on this
22 case?
23 A. I was.
24 Q. Were you on duty the day he was
25 arrested?

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1 A. No.
2 Q. Were you aware of any of the court
3 dates he had at any time?
4 A. No.
5 Q. Were you ever -- did you know who was
6 assigned to prosecute the case?
7 A. No.
8 Q. Did you have any other conversations
9 with Peter Natasi about -- how many conversations
10 with Peter Natasi did you have about this case?
11 A. Just the one.
12 Q. And how long was that conversation?
13 A. I don't recall.
14 Q. If it were a long, extended
15 conversation, fair to say you would remember?
16 A. Yes.
17 Q. So then the inference is that it was a
18 brief conversation?
19 A. Yes.
20 Q. And did you ever have any contact with
21 the Judge, Judge Stahl?
22 A. Yeah, I -- yes, I called him. I let him
23 know that I was generating a complaint and that I
24 was going to send it over to him to review.
25 Q. Is that standard practice?

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1 A. Yes.
2 Q. And was that also a brief
3 conversation?
4 A. Yes.
5 Q. So after the issuance -- after you
6 sent over the Affidavit of Probable Cause and the
7 complaints to Judge Stahl, what, if anything, did
8 you do after that on this case?
9 A. Faxed it over to Paterson Police Department
10 after I tried to locate him and I could not.
11 Q. Did you also take a ride out to
12 Paterson?
13 A. Yes.
14 Q. When did you do that?
15 A. The day the complaints were signed.
16 Q. Did you do anything else in the case?
17 A. I don't recall.
18 Q. Did you ever inquire about the
19 fingerprint evidence?
20 A. From the door?
21 Q. From the door of the car. There was a
22 whole bunch of fingerprint evidence.
23 A. Yeah. Just wait to see when it comes back.
24 When that palm print did come back to the other
25 individual, I reviewed the video from the Hampton

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1 Inn and I reviewed the crime scene photos from
2 Detective Quesada to see if I saw the suspect
3 running out the back door, the glass door where
4 the palm print was lifted from, see if I can see
5 where the suspect touched the door.
6 But the camera angles didn't cover
7 that area when he ran out the back door, so the
8 palm prints that Detective Quesada collected were
9 not of any evidential value because they cannot
10 corroborate where the suspect touched the glass
11 door.
12 Q. Exhibit I. Lift ID/pattern
13 type/Minutiae in the right-hand column. What is
14 the first -- how do you -- are you able to read
15 the first line? It seems to say 01-01, palm 106
16 PTS.
17 A. I don't know what that means.
18 Q. Do you know what the NS -- does that
19 mean not specify? Or in the first column and
20 that's NS, NS, NS, NS.
21 Do you know what that means?
22 A. I don't.
23 Q. If you could get Exhibit H. It says
24 in the results, the far right column, "Lifted
25 three prints off glass door."

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1 So those are the prints that you had
2 questions about?
3 A. Correct.
4 Q. And then under there it says, "Five
5 usable prints lifted." And those are from the car
6 itself, outside driver window and interior.
7 So there were eight prints submitted,
8 correct?
9 A. Yes.
10 Q. How do you know that of the eight
11 prints submitted it was only prints from the glass
12 door that were matching Barrington Walker?
13 A. That's the only report that was given to
14 me, was of the palm print that was lifted off the
15 glass door.
16 Q. But Exhibit J -- so the first page is
17 this his, like -- is this what's on file for this
18 guy? What is the first page?
19 A. You can request -- and I'm not going to
20 speak for Detective Quesada. But I know that you
21 can request an individual's fingerprint card,
22 just as you can request their criminal history
23 report.
24 Q. Does this first page appear to be --
25 A. It does appear to be what I'm talking

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1 about, yes.
2 Q. Now, the second page of Exhibit J, it
3 looks like a palm. Does it say that this is a
4 palm anywhere?
5 A. It doesn't.
6 Q. But this is clearly not the card
7 because it's got Holmdel and the date right on it,
8 suggesting this is something processed by the
9 Holmdel lab relating to the prints taken at the
10 scene, or from the vehicle, right?
11 A. I don't know.
12 Q. So is it fair to say that when you
13 went back to the video, you weren't able to get a
14 visual of the glass door, correct?
15 A. Correct.
16 Q. So you weren't able to say positively
17 or negatively whether those -- based on that
18 video, whether he had used the door in such a
19 manner to leave prints?
20 A. Correct.
21 Q. Do you know -- did you talk to Quesada
22 about why he lifted prints from the glass door?
23 A. Yes.
24 Q. What was the conversation with
25 Quesada?

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1 A. The day of the incident we could not get
2 video from Hampton Inn, so he processed the whole
3 door to preserve the evidence.
4 Q. Did you do anything else after looking
5 at the surveillance footage relating to the glass
6 door?
7 A. I don't recall.
8 Q. Did you ever try to find out if the
9 prints from the car had been tested?
10 A. I know they were submitted. I never
11 received a hit back from any of those prints.
12 Q. And did you ever follow up and try to
13 find...?
14 A. No. Detective Quesada, he gets the kits
15 back. When they come back, they give them to him
16 and he gives them to me.
17 Q. Did you ever ask Quesada for them?
18 A. I don't remember if I did or didn't.
19 Q. Did you ever inquire about the DNA --
20 A. Oh, yes.
21 Q. -- evidence?
22 A. Yes, several times.
23 Q. Did you do that?
24 A. I would ask Detective Quesada to follow up
25 with that.

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1 Q. Did you ever do that in writing?
2 A. No.
3 Q. Did you ever yourself contact the lab?
4 A. No.
5 Q. When did you learn that the plaintiff
6 is 5-foot-7?
7 A. When did I learn that?
8 Q. Yes.
9 A. When the DMV information, along with his
10 picture, were sent to me.
11 Q. Now, the reports from the day of the
12 incident all indicated that the actor was tall.
13 A. Uh-huh.
14 Q. Did that raise any questions?
15 A. I mean, we were uncertain as to whether --
16 how tall this person -- we're going off the DMV
17 information, which is written down by the person
18 getting his driver's license. Nobody actually
19 measures people when they go get their driver's
20 license. You fill out your own card. So that's
21 never really accurate. I've never seen this
22 person before, Nijeer Parks.
23 Q. Officer Lee's report says that the
24 actor was 5' 11"?
25 A. Okay. Again, I never met Nijeer Parks, so

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1 I don't know if his height on his DMV information
2 is accurate.
3 Q. But you had Nijeer Parks in custody at
4 this point?
5 A. No.
6 Q. Because we're talking about --
7 A. I never met Nijeer Parks.
8 Q. But he's in your custody, he's in
9 custody of the State now as part of your
10 investigation.
11 A. Okay.
12 Q. And he was questioned by your
13 colleagues, several of them. So you've laid eyes
14 on him now, the department.
15 And did you -- was that ever
16 processed, the fact that the -- the disparity of
17 the height of the plaintiff and the height of the
18 actor?
19 A. No, because Officer Lee had the chance to
20 do an identification when he was arrested. And he
21 said it was the person he dealt with.
22 Q. And you know that he was seated and
23 shackled at the time of that ID?
24 A. I was not there.
25 MR. RUBENSTEIN: Objection to form.

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1 Go ahead.
2 BY MR. SEXTON:
3 Q. But he issued a report that you made
4 part -- you were the head detective on this, so it
5 was part of your package, right?
6 A. As part of -- I don't understand what
7 you're asking.
8 Q. But you've been -- that was part of
9 your thinking process, that Officer Lee had
10 identified him and he gave a description of that
11 identification that said he's sitting on the bench
12 shackled?
13 MR. RUBENSTEIN: Objection to the
14 word "shackled."
15 But go ahead and answer the
16 question.
17 THE WITNESS: All I was told by
18 Officer Lee and my supervisor, that he
19 identified him. I don't remember any
20 reports where they said he was shackled or
21 sitting on a bench. I don't recall.
22 BY MR. SEXTON:
23 Q. I'll show you what's marked as
24 Exhibit A, if you look at that. It says we "had
25 an individual, Nijeer Parks, who was involved in

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1 the incident on January 26, 2019. We agree that
2 that's a declarative statement, isn't it? They
3 told him we have the guy. They don't say we have
4 a suspect.
5 He says in his report, "they
6 currently had an individual, Nijeer Parks, who was
7 involved in the incident on January 26, 2019."
8 That's suggestive, isn't it?
9 A. That's Officer Lee's report. I'm not going
10 to speculate on his report.
11 Q. "I arrived at headquarters and was
12 brought down to the processing area with
13 lieutenant and detective. I observed Parks
14 sitting on the rail and identified him as being
15 the suspect."
16 MR. RUBENSTEIN: Nowhere does it say
17 "shackled."
18 BY MR. SEXTON:
19 Q. The rail apparently, according to his
20 sworn deposition testimony, that the -- that he
21 was handcuffed to the rail. That's what the rail
22 is used for?
23 A. It's used for that, yes. I don't know if
24 he was handcuffed to it.
25 Q. He testified that he was.

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1 A. Okay.
2 Q. You would agree that even a police
3 officer would be perhaps influenced and suggestive
4 by that presentation?
5 MR. RUBENSTEIN: Objection to form.
6 You can answer, if you can.
7 THE WITNESS: I would have to
8 disagree. It's not suggestive for a
9 police officer to see somebody handcuffed.
10 BY MR. SEXTON:
11 Q. Now, you testified you never were the
12 subject of any lawsuits. Do you remember a matter
13 Dattel (ph) V. Woodbridge?
14 A. You mean the Shelly? Yes.
15 Q. Yes?
16 A. It was not sustained.
17 Q. The question was, were you ever a
18 defendant in a lawsuit?
19 A. No, that wasn't the question either. If
20 you were to ask me if I was a defendant in a
21 lawsuit for Woodbridge Police Department, I would
22 have told you 15, 20 years ago that case came up.
23 Q. Okay. Is this the only time you were
24 a defendant?
25 A. Yes.

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1 Q. And was Detective Quesada also
2 dispatched at that point in time?
3 A. Yes.
4 Q. Okay. So you and Detective Quesada,
5 at some point, arrive at the Hampton Inn?
6 A. Yes.
7 Q. And at that point you start conducting
8 your investigation?
9 A. Yes.
10 Q. Now, what is your job as the lead
11 detective, in general terms, when you get to the
12 scene?
13 A. So I'm to secure the scene, preserve all
14 the evidence with -- interview witnesses, gather
15 video footage, and allow Detective Quesada to
16 process the scene, collect evidence to make sure
17 it gets back to headquarters for processing.
18 Q. And, in fact, Detective Quesada, was
19 he given that job responsibility when he arrived
20 at the scene?
21 A. Yes.
22 Q. And to your knowledge, did he complete
23 his investigation?
24 A. Yes.
25 Q. Did he secure all the evidence?

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1 MR. SEXTON: I think you had some
2 questions, right?
3 MR. RUBENSTEIN: Yes.
4 MR. SEXTON: It might move things
5 along.
6 MS. LEMPKA: We don't have any.
7 Thank you.
8 MR. RUBENSTEIN: No problem.
9 CROSS-EXAMINATION
10 BY MR. RUBENSTEIN:
11 Q. I put Exhibit C in front of you, but
12 I'm going to ask you to refer to it from time to
13 time.
14 So during the day of January 26,
15 2019, were you dispatched out to the Hampton Inn?
16 A. Yes.
17 Q. Okay. And what was the reason for
18 your dispatch to the Hampton Inn on that day?
19 A. They requested a detective. I was
20 listening to what was going on the radio. So I
21 knew what was going on. And when they requested a
22 detective, I was already on my way there.
23 Q. And were you with anyone, or did you
24 drive by yourself?
25 A. I don't recall if I was with anybody.

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1 A. Yes, he did.
2 Q. Now -- and he took fingerprints not
3 knowing -- because of the situation he was
4 confronted with, he took fingerprints and let the
5 results be what they were, right?
6 A. Yes.
7 Q. You weren't sure -- or were you sure
8 if these fingerprints were going to be helpful or
9 not?
10 A. I was not, no.
11 Q. Now, the timing in this is important.
12 So at some juncture -- and you can refer to your
13 report, if you wish. At some juncture the
14 Tennessee license you had possession of; is that
15 correct?
16 A. Yes.
17 Q. And at any point in time did you show
18 it to Officer Lyszk and Officer Lee before you
19 ever did any request for facial recognition in
20 this matter?
21 A. Yes.
22 Q. Did you show it to them at the same
23 time, did you show it to them separately?
24 A. Separately.
25 Q. Okay. And what did Officer Lyszk say

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1 when he saw the identification on the Tennessee
2 license, the picture?
3 A. He said that was the person that he was
4 dealing with.
5 Q. And what did Officer Lee say?
6 A. He said the same thing.
7 Q. So before you ever engaged facial
8 recognition software to try to get a hit,
9 Officers Lee and Lyszk confirmed that the person
10 in the photograph on the ID was the person who was
11 engaged in this event with them?
12 A. Yes.
13 Q. Now, at some point thereafter, as was
14 asked by counsel, you sought the assistance of
15 facial recognition, the software?
16 A. Yes.
17 Q. You ran this photograph, or this
18 photograph was run and it came back with a hit?
19 A. Yes.
20 Q. And that it came back to Mr. Parks; is
21 that correct?
22 A. Correct.
23 Q. When that hit came back to Nijeer
24 Parks, at that point did you speak to Officer
25 Lyszk?

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1 A. Yes.
2 Q. And did you ask Officer Lyszk if the
3 person in the photograph that came back from the
4 hit from the facial recognition program, if that
5 was still the same person?
6 A. Yes.
7 Q. And what did he say?
8 A. He said, yes, he was 100 percent sure.
9 Q. So at this point in time it was -- you
10 had -- Police Officer Lyszk had confirmed two
11 times that the person in the photographs
12 were -- that was the person who had engaged in the
13 conduct on that particular day at the Hampton Inn?
14 A. Yes.
15 Q. And Officer Lee had confirmed it once
16 before?
17 A. Yes.
18 Q. But at this point you still hadn't
19 issued -- or had you issued any complaints or any
20 affidavits for anything like that at this point in
21 time when you spoke with them and you got this
22 back from facial recognition that was run?
23 A. No.
24 Q. Was Officer Lyszk with you when you
25 started to -- strike that.

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1 What did you do first, did you
2 contact the prosecutor's office, or did you begin
3 to compare the complaints?
4 A. No, I contacted AP Natasi.
5 Q. Okay. So you contacted Assistant
6 Prosecutor Natasi and you relayed to him all of
7 the facts that you had at this point in time?
8 A. Yes.
9 Q. Did you tell him that you ran -- that
10 the facial recognition software came back with a
11 hit to Nijeer Parks?
12 A. Yes.
13 Q. Did you tell Officer Natasi -- I'm
14 sorry, Prosecutor Natasi, that officers Lee and
15 Officer Lyszk confirmed that, in fact, this was
16 the person that -- based on the actions on
17 January 26, 2019?
18 A. At that time it was Officer Lyszk.
19 Q. Did you tell Prosecutor Natasi that
20 previously Officer Lee had to confirm the picture
21 in the Tennessee ID was the person who had engaged
22 in the conduct at the Hampton Inn?
23 A. Yes.
24 Q. And did Prosecutor Natasi or Assistant
25 Prosecutor Natasi tell you to issue the complaints

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1 against Nijeer Parks?
2 A. Yes, he did.
3 Q. And is that your standard protocol in
4 this type of matter, that you would get the okay
5 from the prosecutor before you issue any
6 complaints?
7 A. Yes.
8 Q. So you did not issue any of these
9 complaints until Prosecutor Natasi said it was
10 okay?
11 A. Yes.
12 Q. And did he indicate that there was a
13 lack of probable cause?
14 A. No.
15 Q. Did he say there was probable cause
16 and you should issue the complaints?
17 A. Yes, he did.
18 Q. After you spoke to Assistant
19 Prosecutor Natasi, you then, together with Officer
20 Lyszk, prepared the complaints?
21 A. Yes.
22 Q. And you prepared what the charges were
23 against him?
24 A. Yes.
25 Q. Now, were those charges part of the

Pages 133 to 136

Page 137

1 conversation you had with Assistant Prosecutor
2 Natasi?
3 A. Yes.
4 Q. And did he tell you what charges to
5 bring against Nijeer Parks at that point in time?
6 A. Yes.
7 Q. And did you follow his instructions?
8 A. Yes.
9 Q. And once these documents are prepared,
10 the Affidavit of Probable Cause, the complaints,
11 they are sent to who?
12 A. The Judge.
13 Q. Okay. Did Assistant Prosecutor Natasi
14 review them before they went to see the Judge?
15 A. Yes.
16 Q. So before the Judge ever had an
17 opportunity to issue a bench warrant, Assistant
18 Prosecutor Natasi had an opportunity to review the
19 Affidavit of Probable Cause as well as the
20 complaints?
21 A. Yes, he did.
22 Q. And does he call you up or does he
23 e-mail you saying you've got my blessing, it seems
24 like everything is in order, go ahead and bring it
25 to the Judge?

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1 paper in your Affidavit of Probable Cause, and
2 that judge determined that there was enough there
3 to sign off on the arrest warrant?
4 A. Yes.
5 Q. Okay. Is there anything in the
6 complaint or the Affidavit of Probable Cause that
7 is not true?
8 A. No.
9 Q. When the Affidavit of Probable Cause
10 and the complaints were issued, did you have the
11 results of the fingerprint evidence yet?
12 A. No.
13 Q. Did you have the results of the DNA
14 evidence yet?
15 A. No.
16 Q. We've seen documentation here today
17 that the DNA evidence wasn't received until
18 sometime in October of the same year, 2019; is
19 that correct?
20 A. Correct.
21 Q. And the results of that back in
22 October of 2019, was that -- there was no hit
23 because, according to what you had testified to,
24 his DNA may not have been in the system at that
25 point in time?

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1 A. Yes.
2 Q. Do you know, did he call you or e-mail
3 you about this?
4 A. We spoke on the phone.
5 Q. So once you got the okay from
6 Assistant Prosecutor Natasi, is that when you
7 contacted Judge Stahl?
8 A. Yes.
9 Q. And did you appear in his courtroom,
10 did you go to his house? Where did you go?
11 A. No, it's submitted electronically to the
12 Court.
13 Q. And the Court, does it have -- does
14 Judge Stahl have the opportunity to review the
15 Affidavit of Probable Cause and the complaints?
16 A. Yes.
17 Q. And based upon his independent review
18 of the facts, did he issue the bench warrant?
19 A. Yes.
20 Q. Did he have any questions or concerns
21 that he relayed to you before he signed off on
22 this?
23 A. No.
24 Q. So there was an independent judge,
25 looked at all the facts that you had put down on

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1 A. That's correct.
2 Q. And there was a second document that
3 was shown to you, it was a 2021, where DNA
4 evidence showed a hit to Barrington Walker; is
5 that correct?
6 A. Correct.
7 Q. You didn't wait -- or Woodbridge
8 Police Department didn't wait until 2021 to run
9 the DNA evidence, did it?
10 A. No.
11 Q. It was submitted contemporaneous with
12 the event?
13 A. Correct.
14 Q. And it was submitted to the New Jersey
15 State Police?
16 A. Yes.
17 Q. Did Woodbridge Police -- or Township
18 of Woodbridge have any control over the State
19 Police and how long it takes to get the stuff
20 back?
21 A. No.
22 Q. Is there, for lack of a better term, a
23 pecking order of cases and which ones get
24 processed first and which once gets put to the
25 side?

Pages 137 to 140

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1 A. Yes, sir.
2 Q. Can you briefly describe for us which
3 cases get priority?
4 A. Homicides, sexual assaults.
5 Q. Okay. So when you get the DNA
6 evidence back, it's exclusively up to the New
7 Jersey State Police and them running it?
8 A. Yes.
9 Q. Was there anything in this particular
10 matter where you saw -- or anyone on behalf of the
11 Woodbridge Police Department saw the delay in
12 getting that evidence back to you with the
13 fingerprints or the DNA at any point in time?
14 A. No.
15 Q. When the fingerprint evidence and the
16 DNA evidence comes back, or if any evidence comes
17 back, where does it go within the Woodbridge
18 Police Department?
19 A. To the ID Bureau.
20 Q. And what happens with it once it gets
21 to the ID Bureau?
22 A. The ID Bureau would make a copy for myself
23 or the lead detective in the case, and then it
24 would be sent over to the evidence unit for them
25 to either upload it, which is the new system,

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1 upload it into the system. In the old system they
2 would put it in a packet ready for the
3 prosecutor's office.
4 Q. Well, back in the beginning of 2019
5 was the old system in place or was the new system
6 up and running?
7 A. I believe it was the --
8 Q. If you know?
9 A. Yeah, I don't recall.
10 Q. Okay. So is it fair to say that any
11 and all information and/or evidence that is
12 gathered in a particular case is subsequently
13 provided by the Woodbridge Police Department to
14 the prosecutor's office that is handling the
15 matter?
16 A. Yes.
17 Q. Did that, in fact, occur in this
18 particular case?
19 A. Yes.
20 Q. To your knowledge, was the fingerprint
21 evidence that was obtained, was that not provided
22 to the prosecutor's office?
23 A. It would have.
24 Q. To your knowledge, was any DNA
25 evidence not provided to the prosecutor's office?

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1 A. No.
2 Q. So any evidence, be it confirmatory or
3 possibly exculpatory, was provided to the
4 Middlesex County Prosecutor's Office?
5 A. Yes.
6 Q. The lineups -- well, the
7 identifications that were made in this matter, is
8 that common that an officer would be shown either
9 a photograph or, like in the case, where they
10 spent in 20 -- is this like an aberration?
11 A. No, this is common.
12 Q. And did the Prosecutor Natasi make any
13 comment at all to you about the manner in which
14 the identifications were made?
15 A. No.
16 Q. Did he question it at all?
17 A. No.
18 Q. Did the Judge question it at all?
19 A. No.
20 MR. RUBENSTEIN: I don't have
21 anything else.
22 MR. SEXTON: Just a couple of
23 redirect.
24 REDIRECT EXAMINATION
25 BY MR. SEXTON:

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1 Q. Officer Lee is -- he's Asian, correct?
2 A. He's Asian, correct.
3 Q. East Asian?
4 A. I don't know where he's from. I can't hear
5 you very well.
6 Q. East Asian is his race?
7 A. I don't know. He's Asian. I don't know if
8 he's East Asian.
9 Q. But Asia is a big place, from Turkey
10 to Indonesia. And East Asian refers to people who
11 are from China, Korea, Japan, and they have a
12 certain -- it's a distinct race?
13 A. Okay.
14 Q. Do you recognize Officer Lee as being
15 East Asian?
16 A. I don't. I know he's Asian. I don't know
17 where he's from.
18 Q. Does he look Indian to you?
19 A. No.
20 Q. Does he look Arab?
21 A. No.
22 Q. Could he be -- and Lee is a Chinese
23 name, is it not?
24 A. Yes.
25 Q. Is he Chinese or some other East

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1 Asian?
2 A. I don't know.
3 Q. You don't know what race he is?
4 A. He's Asian. I don't know what country he's
5 from.
6 Q. He's certainly not African-American?
7 A. Right.
8 Q. Lyszk is -- the name is Polish. He
9 could be black for all I know. What race do you
10 perceive him as?
11 A. He's a white man.
12 Q. Who's the ID detective?
13 A. Quesada?
14 Q. Quesada. Is it an Hispanic name?
15 What is his race.
16 A. He's Hispanic.
17 Q. Do you know what country of origin he
18 is?
19 A. Costa Rica.
20 Q. Is he light skinned or dark skinned?
21 A. He's medium.
22 Q. You're partly Hispanic?
23 A. I am Hispanic.
24 Q. And light skinned?
25 A. Light skinned.

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1 next day.
2 Q. He's not listed on your report either.
3 A. I wrote him in the body of my report.
4 Q. But you don't list him under persons,
5 with addresses and...
6 A. No.
7 Q. Did you contact Caleigh Higgins, a
8 white female, who was identified as a witness and
9 whose telephone number and address is in the
10 reports?
11 A. I don't recall if I did or didn't.
12 Q. Did you contact Kamisha Grant, a black
13 female, also listed with contact information as a
14 witness?
15 A. I believe they were at the hotel. They
16 were behind the clerk desk.
17 Q. Okay. Did you contact them and set up
18 a photo -- what do you call it, a photo spread?
19 A. No.
20 Q. Director Hubner, has he ever addressed
21 your -- you said nobody's ever talked to you about
22 this incident, right?
23 A. Just my captain and lieutenant when --
24 Q. That one meeting?
25 A. Yeah.

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1 Q. So none of these involve officers who
2 are black; fair to say?
3 A. Fair.
4 Q. Seamus Lyons sounds Irish to me.
5 A. Never seen him before.
6 Q. Dey, an Irish name?
7 A. Don't know.
8 Q. Do you know if any African-Americans
9 were involved in this investigation at all?
10 A. The Hertz manager was black.
11 Q. That's Dones?
12 A. Dones.
13 Q. There were a number of other eye
14 witnesses, I think, listed in the report, Caleigh
15 Higgins, Kamisha Grant. Was Richard Charneco also
16 a witness?
17 A. I don't know who he is.
18 Q. It's listed as reporting person on
19 Lee's report. Probably someone from the... Race
20 is white. Do you know why Dones is not listed as
21 a person on Lee's report?
22 A. He wasn't there the day of the -- let me
23 rephrase it. He was there the day of the
24 incident. However, he left prior to police
25 arrival. I followed up with him, I believe, the

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1 Q. And the police director's never
2 addressed the use of facial recognition?
3 A. No.
4 Q. Does the police director -- does he
5 interact with members of the department?
6 A. Yes.
7 Q. How does he interact?
8 A. He goes to the musters every so often.
9 Q. Does he have a police background, or
10 is he a civilian?
11 A. He has a long police career, yes.
12 Q. Is he now a civilian?
13 A. Yes.
14 Q. And is he also -- does he have other
15 hats besides being director of the police in the
16 municipal universe? Is he director of public
17 safety or anything like that?
18 A. No, just the police director.
19 Q. And so what's your understanding of
20 Dones again?
21 A. He's the Hertz manager.
22 Q. And Charneco?
23 A. I don't recall who he is.
24 Q. Because the report -- he's listed
25 as -- in your report I believe you describe him

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1 as -- you requested video footage from the Hampton
2 Inn manager Richard Charneco.
3 A. Yes.
4 Q. So the manager is Charneco and Dones
5 is what?
6 A. The manager for Hertz.
7 Q. Okay. Is the Hertz office at the
8 hotel?
9 A. Yes. It's a kiosk.
10 Q. Okay. It says here that Dones gave
11 you the rental agreements.
12 MR. SEXTON: I don't think I got
13 those in discovery. Could we get the...
14 MR. RUBENSTEIN: Sure if we have
15 them, we'll provide them.
16 MR. SEXTON: Thank you very much for
17 your time, sir.
18 MR. RUBENSTEIN: I have two last
19 questions, or possibly three.
20 RE-CROSS-EXAMINATION
21 BY MR. RUBENSTEIN:
22 Q. The police station where the
23 processing area is, where Mr. Parks was apparently
24 handcuffed, that area, is there cameras?
25 A. Yes.

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1 Q. Is there anywhere where you get
2 processed, you get fingerprinted, you'd be
3 photographed that is not subject to a camera
4 looking at you at all times?
5 A. There's always a camera. Every angle is
6 covered.
7 Q. Is there any place within the police
8 department in that area that you can think of that
9 is not covered with cameras at the time of
10 Mr. Parks being arrested?
11 A. Unless you utilize the bathroom. That's
12 the only place it wouldn't have cameras.
13 Q. And do you know the race of
14 Mr. Barrington Walker?
15 A. He's African-American.
16 MR. RUBENSTEIN: Thank you.
17 FURTHER REDIRECT EXAMINATION
18 BY MR. SEXTON:
19 Q. Following up on that, so how many
20 bathrooms are there in the police department?
21 A. I couldn't give you that answer. I don't
22 know.
23 Q. Okay.
24 A. There's several floors to the police
25 department, and a couple of them I don't even go

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1 into myself.
2 Q. On the first floor?
3 A. So on the first floor you have one in the
4 lobby. Then inside the police department you have
5 a female and a male locker room. Then by the
6 dispatch office you have a male and female
7 bathroom. And then if you go into the booking
8 area, there's bathrooms in every cell.
9 Q. Other than the bathrooms being outside
10 of the purview of the surveillance cameras, every
11 other inch of the first floor is surveyed?
12 A. Yes, sir.
13 MR. SEXTON: Thank you. Oh, wait.
14 BY MR. SEXTON:
15 Q. And how long has that been the case?
16 A. Since I've been on the job, almost 20
17 years. It's always been covered by cameras.
18 MR. SEXTON: Thank you.
19
20
21 (Deposition was adjourned at 3:43 p.m.)
22
23
24
25

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1 CERTIFICATION
2
3 I, LAURA P. REAM, being a Certified
4 Court Reporter and Notary Public within
5 and for the State of New Jersey, do hereby
6 certify that the foregoing is a true and
7 correct transcript of the proceedings.
8
9
10 LAURA P. REAM, Notary Public
11 License No. 3XT00004000
12
13 DATED:
14
15 This transcript is not to be copied
16 unless under the direct control and supervision of
17 the certifying reporter.
18
19
20
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22
23
24
25

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EXHIBIT “G”

Page 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 21-4021 (JXN)(LDW)

NIJEER PARKS,
Plaintiff,

vs.

Deposition of:
LIEUTENANT EDWARD
BARRETT

October 18, 2022

JOHN E. MCCORMAC, MAYOR OF WOODBRIDGE,
in his personal and official capacity,
ROBERT HUBNER, DIRECTOR OF THE WOODBRIDGE
POLICE, in his personal and official
capacity, CITY OF WOODBRIDGE POLICE
OFFICERS, ANDREW LYSZK and WOODBRIDGE
POLICE SGT. JOSEPH LICCIARDI, WOODBRIDGE
POLICE OFFICERS, JOHN AND JANE DOES 1-20,
being as yet unknown actors, MIDDLESEX
DEPARTMENT OF CORRECTIONS, JOHN AND JANE
DOES 1-20, being unknown actors, MIDDLESEX
COUNTY PROSECUTOR, ACTING PROSECUTOR
CHRISTOPHER KUBERIET, in his personal
and official capacity, and ASSISTANT
MIDDLESEX COUNTY PROSECUTOR, PETER NATASI,
and IDEMIA, INC.'S being the maker of the
facial recognition software and ABC
CORPORATION, being an as yet unknown seller
or servicer of the facial recognition
programs,
Defendants.

HUDSON COURT REPORTING & VIDEO (732) 906-2078

Page 2

TRANSCRIPT of the stenographic
notes of the proceedings in the above-entitled
matter as taken by and before LAURA A. BURNS, a
Certified Court Reporter of the State of New Jersey,
held at the office of JAMES P. NOLAN AND ASSOCIATES,
61 Green Street, Woodbridge, New Jersey, on Tuesday,
October 18, 2022, commencing at approximately 1:35
in the afternoon, pursuant to notice.

Page 3

APPEARANCES:

DANIEL W. SEXTON, ESQ., LLC
Attorneys for Plaintiff
229 New Center Road
Hillsborough, New Jersey 08844
danielsextonesq@gmail.com
BY: DANIEL W. SEXTON, ESQ.

DVORAK & ASSOCIATES
Attorneys for Defendant, Middlesex Department
of Corrections
467 Middlesex Avenue
Metuchen, New Jersey 08840
glempka@dvoraklegal.com
BY: GRACE LEMPKA, ESQ.

LAW OFFICE OF JAMES P. NOLAN & ASSOCIATES
Attorneys for Defendant, Township of Woodbridge
61 Green Street
Woodbridge, New Jersey 07095
frubenstein@jpnlaw.us
BY: FREDERICK L. RUBENSTEIN, ESQ.
GARRY CLEMENTE, ESQ.

Page 4

APPEARANCES:

STATE OF NEW JERSEY
Attorneys for Defendants, Middlesex County
Prosecutor, Acting Prosecutor Christopher
Kuberiet and Peter Natasi
25 Market Street
Trenton, New Jersey 08625
peter.sosinski@law.njoag.gov
BY: PETER SOSINSKI, ESQ.

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1 LIEUTENANT EDWARD BARRETT, 61 Green Street,
2 Woodbridge, New Jersey is duly sworn and testifies
3 under oath as follows:
4 DIRECT EXAMINATION BY MR. SEXTON:
5 Q. Good afternoon, Lieutenant, my name is
6 Dan Sexton, I represent the plaintiff in this
7 matter. Just a couple of preliminaries. Have you
8 ever had your deposition taken before?
9 A. Yes.
10 Q. How many times?
11 A. Once or twice.
12 Q. Okay. And was it for cases involving
13 the department or was it in your personal life?
14 A. Department.
15 Q. So then I'll be brief with the
16 instructions since you've been through it before.
17 As you can see, there's a record being taken of
18 this, so that we have to give our -- communicate
19 only through words. She can't -- the reporter can't
20 take down our gestures or nods of the head. We have
21 to be careful, I'm usually the one who's always
22 forgetting this, but you can't talk over the other
23 person because the reporter will go crazy. She can
24 only record one person's statement at a time.
25 If there's any question that you don't

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1 understand, you should ask -- you say you don't
2 understand and I'll try to rephrase it.
3 Your lawyer will be making objections
4 throughout, those are for the record, unless he says
5 don't answer that and then he and I will hash that
6 out, but otherwise we just keep going.
7 Do you remember the names of those
8 matters that you testified in?
9 A. The latest one was involving a Michael Hodges
10 and if there was another one, I couldn't remember
11 the name.
12 Q. Okay. That's an excessive force case,
13 right?
14 A. Yes, I believe so.
15 Q. What was your involvement in that
16 matter?
17 A. I was the investigator of the internal
18 affairs investigation.
19 Q. Did IA -- what did IA find in that
20 case?
21 A. The officer's actions were proper and they
22 were exonerated.
23 Q. Where does that -- where does that
24 case -- what stage is that case in?
25 A. I believe it may have been settled.

Page 8

1 Q. Do you recall the terms of the
2 settlement?
3 A. No, I was never informed.
4 Q. Do you know -- do you know if anyone
5 in the department ever gives any input as to whether
6 a matter should be settled or not settled?
7 A. As far as lawsuits go?
8 Q. Yes.
9 A. I'm not involved with that, so I'm not
10 certain.
11 Q. When did you come on the department?
12 A. December of 2005.
13 Q. And how long have you been a
14 lieutenant?
15 A. Approximately five years.
16 Q. And when did you become commander of
17 internal affairs?
18 A. About two years ago.
19 Q. Do you remember was it after this
20 incident of the basis of this lawsuit, after
21 January 2019?
22 A. It might have been about the same time. I
23 think it might have been the beginning of 2020 when
24 I took over.
25 Q. So a year after the incident, the

Pages 5 to 8

Page 9

1 incident was in January of 2019?
2 A. Yeah. To the best of my recollection, I
3 think it's been about two years.
4 Q. What were you doing before that?
5 A. I was assigned as one of the investigators.
6 Q. How long have you been in IA?
7 A. Five years about.
8 Q. So around the time you became a
9 lieutenant?
10 A. Yes.
11 Q. And who was the commander before you?
12 A. Before me it was Lieutenant Muir.
13 Q. M-u-i-r?
14 A. Yes, correct.
15 Q. And where is Lieutenant Muir now?
16 A. He is retired.
17 Q. Have you discussed this matter with
18 Lieutenant Muir?
19 A. No.
20 Q. Whom have you discussed this matter
21 with?
22 MR. RUBENSTEIN: Besides your counsel
23 if we had any conversations.
24 BY MR. SEXTON:
25 Q. No, you can tell me which lawyers, you

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1 can't tell me what you spoke about.
2 MR. RUBENSTEIN: Right.
3 A. Our counsel here.
4 Q. Whom did you speak with here?
5 A. Mr. Rubenstein.
6 Q. Anyone else?
7 A. And the name is escaping me.
8 Q. Mr. Clemente?
9 A. Yes, Clemente, I'm sorry.
10 Are you talking from the inception of the
11 case or --
12 Q. Yeah, from the inception.
13 A. Captain Kuzma was aware of it, Lieutenant
14 Velez was the investigator, the police directors
15 were aware of it as well.
16 Q. Plural directors?
17 A. We have a director and we have a deputy
18 director.
19 Q. Who is the deputy director again?
20 A. Joseph Nisky.
21 Q. Nisky?
22 A. Nisky.
23 Q. What kind of training did you have to
24 be an IA?
25 A. After I was assigned to the unit, I attended

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1 courses through Middlesex County Prosecutor's
2 Office, and also I went to a class through the
3 Rogers Group, which was through Stockton University
4 I believe, and most recently the state police --
5 state police/attorney general's office I think
6 hosted a class down in Waretown that I attended.
7 Q. Who ran the training at the
8 prosecutor's office?
9 A. At the time I believe it was Michael
10 Danowitz. That was several years ago. I know he
11 was there I think I was the highest ranking person
12 there.
13 Q. Was Danowitz an assistant prosecutor
14 or was he an investigator or --
15 A. No, I believe he was a lieutenant right
16 before he retired. I'm not sure if he was sergeant
17 or lieutenant when we did the training.
18 Q. And what did the training consist of?
19 A. Went over the attorney general's guideline
20 that was in effect at the time. How they -- the
21 county prosecutor's office expected us to, you know,
22 handle internal affairs, the methods to utilize,
23 things of that nature.
24 Q. Was anyone else -- anybody else from
25 the department taking those classes with you?

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1 A. Captain Kuzma may have attended some of them,
2 Lieutenant Velez I believe was at some of them, the
3 most recent one in Waretown Lieutenant Ng and I went
4 to.
5 Q. Ng?
6 A. N-g.
7 The one from Stockton, the Rogers Group one,
8 I went there alone. That one I attended by myself.
9 Q. Did -- COLIA, do you know that group
10 that comes into to do standards and stuff?
11 A. Oh, CALEA?
12 Q. Yes.
13 A. Yes.
14 Q. Did you -- did they have any -- did
15 they provide any training or guidance?
16 A. Not that I am aware of, no.
17 Well, as far as guidance goes, they aid with
18 accreditation standards, so I don't know if that
19 would be guidance or not.
20 Q. Do they -- so they review -- do they
21 review IA for compliance with standards; is that
22 what you're saying?
23 A. There are certain accreditation standards
24 that I have to provide proofs for, as far as the way
25 we maintain our indexes and filing system, our

Pages 9 to 12

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1 reporting, you know, I provide proofs that are
2 redacted to show compliance with the standards that
3 are set forth.
4 Q. So what are the -- can you recall --
5 so what are the -- what are some of the categories
6 that are given this accreditation review in your --
7 A. I'm sorry, are you done?
8 Q. Yes.
9 A. Our yearly indexes, officer indexes, examples
10 of different types of discipline that are imposed,
11 there's a spreadsheet for our recruitment and
12 selection, use of force reports, different
13 categories of use of force, other firearms
14 discharges. There's several. That's the ones I can
15 think of right now.
16 Q. And is there like a yearly report that
17 you make to CALEA on -- on these discreet --
18 A. Our accreditation manager, he's the one that
19 compiles all the proofs and submits everything to
20 CALEA.
21 Q. Who is that person?
22 A. Andrew Tuttle. He's a civilian employee.
23 Q. Is he retired?
24 A. No.
25 Q. Have you ever gotten like anything

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1 from CALEA that you are not in compliance in any of
2 these areas?
3 A. No, I have not.
4 Q. Did you ever get anything like that
5 from the prosecutor's office, and by that I mean
6 anything saying that you weren't in compliance with
7 some relevant standards by any of the sources of
8 training that you've identified, that is the
9 prosecutor's office, the AG's office, or any of
10 these -- Stockton or anyplace?
11 A. No.
12 Q. Are these reports, does Andrew Tuttle
13 maintain sets of these reports, the yearly indexes,
14 the recruitment analysis, et cetera, the use of
15 force analysis?
16 A. He collects them, he submits them on an
17 annual basis as far as I know. Whether or not he
18 retains them once they're submitted, I am not
19 certain.
20 Q. Do you know the person at CALEA whom
21 you have interacted with?
22 A. From the -- from CALEA itself?
23 Q. Yes.
24 A. No, nobody. Not directly anyway.
25 Q. Where is CALEA located, headquartered?

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1 A. I know they have a conference every year, I
2 believe it's in Mississippi. But other than that, I
3 don't know where their national headquarters is at.
4 Q. Do you guys go to that conference?
5 A. When we're up for accreditation, I believe we
6 send people down there for that. I have never gone
7 myself.
8 Q. Who goes?
9 A. Mr. Tuttle goes down and generally Captain
10 Kuzma goes down.
11 Q. The chief never goes down?
12 A. Captain Kuzma is our chief law enforcement
13 officer. We don't have a ranking chief.
14 Q. But the director never does?
15 A. I'm not sure if he does or doesn't.
16 Q. When -- how does -- how do -- how does
17 your office open a file? What causes it to open a
18 file?
19 A. Any time somebody makes an allegation of
20 officer misconduct or any time anybody in the agency
21 observes what may be officer misconduct and our
22 office is notified, sometimes it comes from our
23 offices itself, we generate a number, an indexing
24 number to start the case.
25 Q. So sometimes it comes from, is that I

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1 guess superior officers or peer officers or --
2 A. It can come from regular police officers. It
3 can come from sergeants, lieutenants, captains,
4 citizens, anonymous complaints. Sometimes things
5 are seen on social media, lawsuits.
6 Q. For your caseload, what percentage is
7 internally driven by superiors -- I guess agency
8 complaints and what percentage is citizen
9 complaints?
10 A. I would have to look. It varies year to
11 year.
12 Q. Do you know what it was last year?
13 A. Not off the top of my head, no.
14 Q. Do you have an estimate of how it
15 breaks down?
16 A. I would be guessing.
17 Q. Does it switch or does it have a
18 pattern where there's generally --
19 A. Just depends on what's going on, you know, if
20 there's some sort of new policy that has been
21 instituted, sometimes it takes time for people to
22 get up to speed with that, sometimes there's more
23 motor vehicle crashes one year than the next.
24 Q. Is there -- I'm sorry, is there an
25 accident investigation unit?

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Page 17

1 A. We have a traffic enforcement unit, yes.
2 Q. So if there's a motor vehicle accident
3 involving officers, is that traffic that
4 investigates that or you?
5 A. No, on the scene is investigated by the
6 officer's supervisor.
7 Q. And then who reviews it through --
8 A. Determination is made whether or not the
9 officer is at fault, not at fault, or partially at
10 fault, and it gets sent up to our office and it's
11 indexed there.
12 Q. Am I correct in understanding that a
13 motor vehicle accident is initially investigated by
14 a traffic unit?
15 A. No, the officer's direct supervisor.
16 Q. Okay. And is there something -- some
17 investigation through traffic?
18 A. Well, it would depend on the severity of the
19 accident. If there's a severe motor vehicle
20 accident with severe personal injury or death, the
21 prosecutor's office would be notified and I guess at
22 this point now the OPIA would be notified.
23 Q. What is OPIA?
24 A. That's the Office of Public Integrity and
25 Accountability, through the attorney general's

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1 office, and they handle any sort of investigation
2 that's related to death that occurs as a result of a
3 law enforcement encounter.
4 Q. When did OPIA come into existence?
5 A. A year or two ago. I can't remember what the
6 directive was exactly that the mandatory
7 notifications were. It might have been like --
8 maybe it was 2018-5 and 6, off the top of my head.
9 So it might have been since 2018.
10 Q. So citizen complaints, how are they
11 initiated?
12 A. They can either walk in, they can request a
13 supervisor at the scene. We get emails. We get
14 postal mail, telephone calls, anyway that they can
15 get in contact with us.
16 Q. What is a 500 complaint?
17 A. 500 complaints are complaints that are not
18 forwarded up to the county prosecutor's office.
19 Ones that don't require some sort of criminal
20 review.
21 Q. What are the reports called that
22 require a criminal review?
23 A. They're like 00 numbers, so it would be 001,
24 002 and so on and so forth.
25 Q. So it's fair to say that there's often

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1 a gray line between what is a 00 and what's a 500?
2 A. I guess at times there could be. Generally
3 if we think that there might be a criminal aspect to
4 it, we will send it to the prosecutor's office.
5 Q. Who reviews it at the prosecutor's
6 office?
7 A. Our contact person there is Detective Joe
8 Russo right now.
9 Q. How long has he been the contact for
10 that?
11 A. Maybe a year and a half. They rotate their
12 people pretty frequently.
13 Q. Does the prosecutor's office review
14 your 500 reports?
15 A. They get unloaded into Infoshare, which is I
16 guess a document sharing or information sharing
17 thing that they have set up. I enter everything
18 into there, as far as the case numbers and a brief
19 description of the case. Whether or not they look
20 at it, I'm not aware.
21 Q. Have you ever had -- had a comment or
22 criticism about a 500 report from the prosecutor's
23 office?
24 A. No. Sometimes, though, they do -- people
25 complain to them and then they send things down to

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1 us, demeanor complaints and minor rule infractions.
2 So that's another way we get complaints, through the
3 prosecutor's office. And also sometimes through the
4 attorney general's Office, things filter down
5 through them, as well.
6 Q. Lieutenant, this is previously marked
7 as Exhibit 1, it's a list of complaints that your
8 attorney sent to me. Do you just briefly want to go
9 through each one of those and see if you recognize
10 them and are familiar with the cases. The Ayler
11 case?
12 A. No, I'm not familiar with that.
13 Q. The Naveo case?
14 A. No, I'm not familiar with that.
15 Q. The Wint case?
16 A. No.
17 Q. Hearn's?
18 A. That one, yeah, I remember that one.
19 Q. What was that about?
20 A. That was -- I believe it was an allegation of
21 false arrest. I think it was pertaining to credit
22 card theft, if I remember correctly.
23 Q. Do you know what it was settled for?
24 A. No, no idea.
25 Q. Did your office do any investigation

Pages 17 to 20

Page 21

1 into --
2 A. Prior to my being up there, there was an
3 investigation.
4 Q. Testa case?
5 A. I am not familiar with that.
6 Q. What is your understanding of the
7 use -- acceptable use of facial recognition
8 technology?
9 A. As far as our internal policies or --
10 Q. Well, yeah, what is the Woodbridge
11 Police Department's policies regarding facial
12 recognition technology?
13 A. We don't have any formal policies regarding
14 facial recognition, not that I'm aware of anyway.
15 Q. Has any guidance been provided to
16 members of the department about how to use it?
17 A. The only guidance that I'm aware of was a
18 memo or some sort of directive that was sent out by
19 the attorney general a couple years ago saying, I
20 believe it was not to use -- to not use Clearview AI
21 facial recognition. That's the only thing I'm aware
22 of.
23 Q. Was that circulated to members of the
24 department?
25 A. At some point it came cross my desk, so I --

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1 I'm not sure who received it, but I did.
2 Q. So you don't know if that was
3 circulated?
4 A. No, no.
5 Q. If it had been circulated, in what
6 form would it have been circulated? Would it have
7 been made a general order or put on the -- what's
8 that computer thing everybody uses?
9 A. Oh, PowerDMS?
10 Q. Yes. Would it have been put on
11 PowerDMS?
12 A. That would have been the most effective way
13 to distribute it.
14 Q. As far as you know was that -- was
15 that ever distributed through PowerDMS?
16 A. I don't remember that it was.
17 Q. Do you know anything else about facial
18 recognition technology other than the AG ruling
19 against Clearview AI?
20 A. No, I'm not really familiar with it.
21 Q. Have you been to the ROIC?
22 A. To the actual location?
23 Q. Yes.
24 A. No, I have never been there.
25 Q. Do you work with people regularly from

Page 23

1 the ROIC?
2 A. No.
3 Q. Do you know if anyone else in IA has
4 any special knowledge of facial recognition
5 technology other than the knowledge that you just
6 described for yourself?
7 A. No.
8 Q. Are you aware that facial recognition
9 technology has been reported to be racially biased?
10 MR. RUBENSTEIN: Objection as to
11 form, but you can answer.
12 A. I have seen media reports and things of that
13 nature, and I'm not sure if that was a reason why
14 the attorney general at the time put out that order.
15 But I've heard such things. I don't know the
16 evidence behind it.
17 Q. Do you remember where you heard this?
18 A. News broadcasts, articles on-line.
19 Q. Did you read or see any news articles
20 about this matter?
21 A. Yeah. When the allegations were made and it
22 was in the local news, yeah, I saw those articles.
23 Q. Do you remember what papers those
24 were?
25 A. It might have been mycentraljersey.com, it

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1 might have been Woodbridge Patch. Those are
2 probably the ones I'm most familiar with.
3 Q. Did you -- how about in the national
4 media, did you watch or hear or read any of those
5 stories?
6 A. No, I really don't follow too much of that
7 stuff.
8 Q. Is there anybody in the office IA
9 whose job it is to sort of do clippings, you know,
10 clip news articles or things like that to keep track
11 of coverage?
12 A. Coverage pertaining to?
13 Q. Anything in the department?
14 A. Oh, just specific to the Woodbridge Police
15 Department?
16 Q. Yes.
17 A. If something is relevant I guess to a case
18 that's going on, we'll generally try to print it out
19 and include it in the investigation file.
20 Q. But there's no general attempt to keep
21 track of every article written about the department
22 or every story that's run?
23 A. No. Because everything pretty much persists
24 forever on-line, so it's not like where you had the
25 newspaper and you've got to cut it out and laminate

Pages 21 to 24

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1 it. Just generally it's always available now.
2 Q. Were you aware of the article -- I
3 mean, the issue about the barbershop with the PPO --
4 the PP -- the pandemic money, were you involved in
5 that investigation?
6 A. No.
7 Q. How did that -- how did that become an
8 issue, do you know?
9 MR. RUBENSTEIN: Objection as to
10 form. If you know.
11 A. No, I don't know how it evolved, it came to
12 be.
13 Q. Did IA get involved in that at all?
14 A. No, the county prosecutor's office was going
15 to look into that.
16 Q. So when the county prosecutor takes
17 over investigating a situation, do you keep a shadow
18 file so that you're sort of also following?
19 A. No. Generally if there's something that we
20 need to have on file that they do, they will provide
21 it to us. So if, you know, they start investigating
22 something and then it gets returned to us for
23 whatever reason, they will provide us with a copy of
24 their investigation.
25 Q. But you don't automatically start a

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1 file on everything that the prosecutor is doing?
2 A. No.
3 Q. So unless they get back to you, you
4 will not have realized -- for example, if they had
5 had an investigation for a criminal matter involving
6 an officer, unless they get back to you, you
7 wouldn't even have any record in your office of such
8 an investigation?
9 A. Well, if they're investigating an officer for
10 a criminal matter, I would expect them to notify us
11 of that, unless there's some reason that they think
12 notifying us would hinder the investigation or cause
13 a problem in the investigation somehow.
14 Q. Okay. So it's fair -- so if they
15 notify you, do you start a file?
16 A. Yes, if there's a criminal allegation against
17 one of our officers, yes, then we start a file.
18 Q. So then did you start -- for instance,
19 they were investigating this use of monies for the
20 barbershop in the department, it must have been
21 because they thought there was potentially some
22 criminal activity there?
23 A. I'm --
24 MR. RUBENSTEIN: Objection as to
25 form, but go ahead.

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1 A. I'm not really familiar with what it was they
2 would have been investigating. I don't --
3 Q. But you said that they only
4 investigate matters that are potentially criminal?
5 A. Not only. I mean, if they have to have -- an
6 example is, if you need somebody that's impartial to
7 look into something, it's like when our chief law
8 enforcement officer, if he uses force, I am not the
9 one who reviews his force. The county prosecutor's
10 office reviews his force, because it's one step
11 removed. There's -- I don't know what you want to
12 call it, there's a buffer there, there's a break
13 there, they're more impartial.
14 Q. So, I mean, that was a pretty high
15 profile investigation in all newspapers and --
16 A. I think that's probably why they held onto
17 it.
18 Q. And you didn't even have a file on it
19 in your office?
20 MR. RUBENSTEIN: Objection as to
21 form, go ahead.
22 A. Yeah, I don't have one.
23 Q. Did you have much to do with the
24 Gutierrez matter?
25 MR. RUBENSTEIN: Objection as to

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1 form. If you know what the Gutierrez matter is.
2 A. I am not sure what that is, no.
3 Q. It was a case that was settled
4 recently for \$125,000, does that refresh your
5 recollection?
6 MR. RUBENSTEIN: Objection as to
7 form. I'm pretty sure it wasn't recent.
8 MR. SEXTON: Oh, yeah, it's not
9 recent. It was back in 2017.
10 A. No, I don't recall that.
11 BY MR. SEXTON:
12 Q. I'm showing you H-3, it's an index
13 sheet. Did you run these reports?
14 A. This one, yes.
15 Q. And did you do this in response to
16 requests from counsel?
17 A. Yes.
18 Q. And how did you go about creating
19 these reports?
20 A. Each year they had an Excel spreadsheet that
21 indexed all the internal affairs complaints and then
22 I sorted through them and I printed out what was
23 relevant to the request.
24 Q. Can I see it again?
25 Do you remember what you were told is

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1 relevant?
2 MR. RUBENSTEIN: Objection, it's
3 communication between me and Lieutenant Barrett. Do
4 not answer that question.
5 THE WITNESS: Huh?
6 MR. RUBENSTEIN: Do not answer that
7 question.
8 MR. SEXTON: Well, I can ask him how
9 he was told to create this report.
10 MR. RUBENSTEIN: If he was told
11 anything about how to create it, you can ask him.
12 BY MR. SEXTON:
13 Q. Were you given -- when you created
14 this report, what were your criteria?
15 A. Based on what I remember, any complaints of I
16 guess bias or differential treatment and any
17 complaints of -- or allegations of false arrest.
18 Q. Who codes them as differential
19 treatment, bias, false arrest?
20 A. Generally they are coded based on what the
21 primary or the most serious complaint is of the
22 complainant or whoever brings the complaint forward.
23 Q. Do you know -- for instance, the first
24 page is about 2014 and it has three differential
25 treatment allegations.

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1 seven, eight complaints for 2014?
2 A. Yes.
3 Q. Do you have any -- is that a normal
4 number for a year or is there such a thing as a
5 normal number or does it vary --
6 MR. RUBENSTEIN: Objection as to
7 form.
8 BY MR. SEXTON:
9 Q. -- to the extent that you can't really
10 answer in that manner?
11 A. Yeah, there's no standard normal number for
12 any complaints that we receive.
13 Q. So if I'm reading this correctly,
14 there are eight allegations in 2014 of improper
15 arrests or differential treatment, and only one of
16 them was sustained, is that --
17 A. For differential treatment?
18 Q. For both, both?
19 A. Both combined?
20 Q. Yeah.
21 A. Yeah, there was one sustained for improper
22 arrest.
23 Q. So nothing sustained for differential
24 treatment?
25 A. No.

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1 MR. RUBENSTEIN: Can you show him the
2 paperwork, please?
3 MR. SEXTON: Yeah, I will.
4 BY MR. SEXTON:
5 Q. If I'm reading that correctly, the
6 first page -- the order of this document is the
7 order it was produced by -- you can see that they're
8 numbered on the upper right -- upper left from where
9 you're sitting. And the first page is 2014, and I
10 think it's differential treatment, and the last page
11 of that document I think is also 2014, but it's
12 improper arrest?
13 A. Yes, that's correct.
14 Q. So those -- that's five complaints for
15 2014. I believe that's all that was produced for
16 2014.
17 A. Yes.
18 Q. Does that -- in your experience is
19 five --
20 A. Well, there's -- 2014 there's three more
21 improper arrests here on this page.
22 Q. Oh, okay. Well, would that page be
23 the second to last page?
24 A. Second to last, yes.
25 Q. So then it's three, six -- or six,

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1 Q. So that's one out of eight.
2 Were you ever given training as to
3 what red flags -- when a low level of sustaining
4 complaints becomes a red flag for the effectiveness
5 of an IA unit?
6 A. Not that I remember.
7 Q. You never heard any type of analysis
8 like that at all?
9 A. No. I mean, you do the investigations, you
10 know, as completely and logically as you're able to,
11 and you make your determination as to whether or not
12 the complaint is sustained or otherwise based on the
13 information that's available to you.
14 Q. So you never -- in all of your
15 training, all your reading and all of your police
16 experience, you never heard that it's a problem when
17 an IA unit never -- fails to sustain a certain
18 percentage of complaints?
19 MR. RUBENSTEIN: Objection as to
20 form.
21 A. Not that I remember. But there are plenty of
22 other sustained complaints, they're just not in
23 these categories.
24 Q. What categories would they have been
25 in?

Pages 29 to 32

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1 A. Other categories include demeanor, other rule
2 violation, excessive force. What are the others?
3 There are several different categories. Off the top
4 of my head I'm trying to remember.
5 Q. Improper search, excessive force,
6 demeanor, improper search?
7 A. Other rule violations.
8 Q. And these would all be 500 reports?
9 A. It would depend. Generally excessive force
10 are 00 numbers. All excessive force complaints get
11 forwarded to the county prosecutor's office.
12 Additionally, the way that they were indexing
13 these back in 2014, I don't know if they were
14 assigning them numbers the same way that we are now.
15 That was before my time up there.
16 Q. By numbers, they were given a case
17 number, is that it?
18 A. Case numbers, yeah. How they're assigning
19 case numbers.
20 Q. And that's 14 -- so here it says,
21 "14, 569," so that indicates that there were 569 --
22 that this is the 569th complaint on or about
23 July 10, 2014?
24 A. No, it would be the 69th, because you start
25 at 501, 502.

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1 findings to the chief law enforcement executive and
2 the director, and then they make a determination on
3 discipline, based on what happened and the officer's
4 history. So I present the facts to them or one of
5 the other investigators do, and then they make a
6 determination as to what type of discipline is to be
7 imposed.
8 Q. Do you give like a recommendation or a
9 kind of analysis of what rules, regs, or laws might
10 be involved in that regard?
11 A. Yeah. Any rules, regulations, anything that
12 would have been violated, we inform them as such.
13 Q. Is there like a recommendation report
14 or do you --
15 A. No. Just a recommendation if the complaints
16 are sustained that discipline should be imposed in
17 some way.
18 Q. Is there typically a memo to the
19 chief -- what do you call him? CLEO?
20 A. Yeah, the CLEO, yeah, he's given the report,
21 the file, if he requests it, that's up for review.
22 Q. The report with all the relevant
23 reports and stuff, but is there also like a memo
24 from you or Velez or Kuzma about each -- in each
25 case?

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1 Q. Oh, 500, okay, I got it.
2 So you get -- it looks like then you
3 get about 100 complaints a year?
4 MR. RUBENSTEIN: Objection as to
5 form. You can answer.
6 A. It varies.
7 Q. What does it vary between in your
8 experience?
9 A. Historically, I would have to find out. I
10 can't recall off the top of my head.
11 Q. What's your -- so can you give me the
12 definition of unfounded, exonerated, and not
13 sustained?
14 A. Unfounded means that the alleged conduct did
15 not occur. Exonerated means that the alleged
16 conduct did happen, but the officer's actions were
17 justified, legal, and proper. And what was the
18 third one, not sustained?
19 Q. Yeah.
20 A. Not sustained is that there's insufficient
21 proof to either prove or disprove the allegation.
22 Q. Thank you.
23 What is your general involvement with
24 discipline with officers?
25 A. We do the investigation, we'll bring the

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1 A. A memo regarding what?
2 Q. The facts in the case.
3 A. No, that's the purpose of the report.
4 Q. So it's -- I'm sorry.
5 A. It's a report.
6 Q. So would every 500 report have --
7 every 500 complaint have such a report?
8 A. No. Some are handled informally through the
9 radio patrol office, sometimes people come in and
10 they would just fill out the preliminary IA
11 investigation report, and then sometimes they're
12 able to complete the investigation or handle it in
13 some way. And they would write their findings on
14 that report and send it upstairs for index and
15 filing.
16 Q. And so if the matter is handled
17 informally would be lesser matters?
18 A. Yeah, minor rule violations, some demeanor
19 complaints, lower level misconduct.
20 Q. How about with major discipline,
21 what's your involvement with major discipline?
22 A. As far as recommendations or investigations?
23 Q. Well, how -- just -- if you can just
24 tell me your whole -- serious matter that results in
25 major discipline, what would your typical

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1 involvement be with that matter?
2 A. If something is a serious rule violation or
3 something that's egregious, then our office would
4 handle the investigation, and it would be handled
5 the same way with the discipline, we would provide
6 the facts of the case to the chief law enforcement
7 officer and the director's office and they would
8 make a determination as to what type of discipline
9 would be imposed.
10 Q. Have you been involved in any cases
11 that go to hearings?
12 A. As an investigator?
13 Q. As a -- as a witness.
14 A. Have I been a witness? I don't think so.
15 Oh, have I? No, not like you're talking -- what
16 type of hearing are you talking about?
17 Q. Major disciplinary hearing.
18 A. Oh, you're talking like administrative law,
19 that kind of stuff?
20 Q. Well, before you go to administrative
21 law, there's a hearing that --
22 A. Oh, like an in-house hearing, yes.
23 Q. With a BA or he's designated as the
24 hearing officer?
25 A. Yes.

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1 Q. How many times have you been a
2 witness?
3 A. Once or twice.
4 Q. That's a witness once or twice out of
5 the departmental?
6 A. Yes.
7 Q. How about at OAL level?
8 A. Never.
9 Q. Is there -- do you know about Velez,
10 if he's testified much?
11 A. I don't believe he has.
12 Q. How about Kuzma?
13 A. Not to my knowledge.
14 Q. So is it fair to that if somebody is
15 going to testify, are you usually the person who
16 gets the --
17 A. Usually it's the person who conducts the
18 investigation.
19 Q. How many -- how are files split up at
20 the office? Are they split up between the three of
21 you or --
22 A. Which type of files?
23 Q. Well, all types of files. So you have
24 500s, you have the 00s. What other files are there?
25 A. There are personnel files, there are medical

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1 files.
2 Q. But those aren't cases?
3 A. Oh, you're talking about cases?
4 Q. Yes.
5 A. They're, you know, separated, you know,
6 they're grouped together year by year, you know, in
7 different filing cabinets we have in our office.
8 Q. For handling, like is it -- are they
9 assigned -- does a case get assigned to a
10 particular -- either -- there's three of you in the
11 IA, right?
12 A. Yes.
13 Q. So do you split up the cases
14 between -- among the three of you?
15 A. Yes.
16 Q. And is -- do like 500s go to you and
17 00s goes to Velez or is there any rhyme or reason
18 or --
19 A. No. That they get assigned based on the
20 caseload, you know, so it's whatever is most
21 appropriate based on how much work somebody has
22 going on.
23 Q. And what's your average caseload,
24 would you say?
25 A. Well, for investigative, it varies.

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1 Q. What does it vary between?
2 A. From nothing at all to several cases.
3 Q. Several being three or four?
4 A. I couldn't put a hard number on it.
5 Q. What's the most cases you've ever
6 handled at a single time?
7 A. Right now I've got a couple. Four to five
8 maybe.
9 Q. Do you think you need more personnel
10 in IA or are you adequately staffed?
11 A. No, we are adequately staffed.
12 Q. I am showing you what has been marked
13 as Exhibit 5 -- H-5.
14 A. Okay.
15 Q. So did you create those reports, as
16 well?
17 A. Yes.
18 Q. Okay. And what's difference between
19 H-5 and H-3?
20 A. The years are different, I believe.
21 Q. This says it's 2014 through --
22 A. Yeah, there's 2017. This is all differential
23 treatment. And that's -- there's a mix here. Yeah,
24 differential treatment and you've got false arrest
25 in these.

Pages 37 to 40

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1 Q. Can I see that? Thanks.
2 Is this just a different form from a
3 report from the same database?
4 A. Yes, they all come from the same index
5 sheets. Why they're presented this way, I don't
6 remember compiling them in this matter. When I
7 prepared them, I don't believe they were in this
8 order. This looks like a different order than even
9 when I prepared them.
10 Q. Yeah. Because I don't quite
11 understand -- so these are not like the order of a
12 specific report or is it the order of a specific
13 report?
14 A. Well, this top sheet here would be -- this is
15 all the differential treatments from 2019.
16 Q. That's just one then?
17 A. Yeah, just one in that year. And this is all
18 for 2018, differential treatment. Differential
19 treatment, bias profiling, 2017. And you've got
20 '16, '15, and '15 again and '14.
21 Q. What's the difference between bias
22 profiling and differential treatment?
23 A. They are essentially the same thing. It's
24 whoever did the index that year, that's how they
25 decided to label it.

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1 17. Yeah, I didn't generate that report.
2 Q. Well, wouldn't these have all been
3 generated for the response to the discovery demands?
4 A. No, I had to go into the Excel spreadsheets
5 and I had to select the relevant cases and include
6 them.
7 Q. So --
8 A. I didn't change any of the data, I just
9 copied it.
10 Q. So these reports aren't -- they're not
11 generated through some kind of an application,
12 they're manually created?
13 A. Yes.
14 Q. What's this 30th day, 45th day?
15 A. That's the -- pertains to the time
16 constraints on internal affairs investigations.
17 Q. So it comes up to make sure you don't
18 miss the day?
19 A. Yeah, that's the intention.
20 Q. What happens at the 30th day?
21 A. I believe that in our policies it used to be
22 that the investigations had to be concluded by the
23 30th day, that was our agency's reference, but I
24 think since then that's changed.
25 Q. The 45-day rule, what is that? That's

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1 Q. If you can help me read this left-hand
2 column, it says, "Case number," that's obvious
3 enough, date obvious. What's the investigation
4 number that's --
5 A. Investigator number.
6 Q. Investigator number, okay. That's the
7 badge number of the person?
8 A. Correct.
9 Q. Who is 505?
10 A. That's me.
11 Q. Okay. Then IS is what?
12 A. Infoshare.
13 Q. What's an Infoshare?
14 A. That's the number that's assigned by
15 Infoshare through the county prosecutor's office.
16 So that's the prosecutor's office, that's their
17 investigation number.
18 Q. I see. And what's PH?
19 A. I'm not sure what that means.
20 Q. And Y, yes?
21 A. Yes, I suppose.
22 Q. You don't know what it means.
23 Prosecutor hold?
24 A. Yeah, I didn't prepare that report. That's
25 before my time I think. Those are 2000 and what,

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1 something else?
2 A. Well, there's the 45-day rule as it pertains
3 to internal affairs investigations. That says
4 generally any internal affairs investigation should
5 be completed within 45 days unless there's a cause
6 not to. And then the other 45-day rule is that once
7 you have sufficient cause to charge, you have 45
8 days to do so.
9 Q. Officer involved, that's --
10 A. That's the target officer.
11 Q. And remarks, that's the coding,
12 differential?
13 A. Yeah. That would be the primary or the --
14 the primary allegation.
15 Q. Source, does that mean where it came
16 from?
17 A. That's where the complaint originated.
18 Q. What's CIT?
19 A. Citizen.
20 Q. Source -- anonymous as a source, so
21 that could be anonymous, either an officer or a
22 citizen?
23 A. It could come from anywhere. We might not
24 necessarily know anything about who made the
25 complaint.

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1 Q. Do you remember what case you
2 testified in with major disciplinary case?
3 A. In the department level, it was -- I think it
4 was Officer Graham.
5 Q. Do you know what Graham was charged
6 with?
7 A. Sick time violation, unauthorized secondary
8 employment, a couple other things.
9 Q. Is there off-duty work in Woodbridge?
10 A. Yes, there is.
11 Q. And do you know how many officers are
12 involved in that?
13 A. I'd say the majority of them. I couldn't put
14 a specific number on that.
15 Q. Okay. And do you know who sets the
16 rates?
17 A. The union contract I believe does.
18 Q. And have you -- do you get many
19 complaints from private businesses about the
20 off-duty demands of officers?
21 MR. RUBENSTEIN: Objection as to
22 form. You can answer.
23 A. Can you repeat the question?
24 Q. Have you ever gotten any complaints
25 about -- from citizens about how the off-duty work

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1 is handled?
2 A. From citizen, no, I don't remember any in
3 recent history. Agency -- no, not from citizens.
4 Q. Who makes the complaints?
5 A. On occasion there were agency complaints
6 where an officer might miss an off-duty assignment,
7 and they'll face some sort of discipline for that or
8 a counseling or something of the like.
9 Q. But there's never complaints by
10 private industry that they feel they're being shaken
11 down by the police?
12 MR. RUBENSTEIN: Objection as to
13 form.
14 A. No, not that I remember.
15 Q. Have you heard about that in other
16 towns?
17 MR. RUBENSTEIN: If you know.
18 A. I have seen the articles about Edison that
19 have been going on for several years now.
20 Q. What do you know about the situation
21 in Edison?
22 A. From what I've read, that officers were
23 working their regular job and also getting paid for
24 secondary employment, and it may have had something
25 to do with kickbacks. I don't -- I'm not sure of

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1 all the specifics of it. All I know is there's an
2 indictment that was dismissed and then they charged
3 him again and then there was another indictment. It
4 just came out the other day I guess.
5 Q. Has it -- has off duty come up as a
6 political issue?
7 A. Not to my knowledge.
8 Q. Has there been any politically charged
9 issue relating to the Woodbridge Police Department
10 that you're aware of?
11 MR. RUBENSTEIN: Objection as to
12 form.
13 A. Political charged in what regard?
14 Q. In any way that --
15 A. Well, there were some protests over the last
16 couple of years. I know Mr. Parks' name was brought
17 up at council meetings, and what was the other guy's
18 name from the QuickChek? Daniels-Porter. I know
19 those two -- oh, and there was a third one, there's
20 a burglar that was arrested after breaking into cars
21 at somebody's house, and I can't remember that guy's
22 name, but that was brought up in the newspapers over
23 the last couple of years, too. And I think that
24 might have been brought up at council meetings, as
25 well.

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1 Q. Did you ever work as a detective?
2 A. I did a 90-day rotation in the detective
3 bureau probably around 2012.
4 Q. So you've been on the job for seven
5 years?
6 A. Yeah, about -- about that.
7 Q. So what was that -- why did you do a
8 90-day rotation at that time?
9 A. I put in a request to do a 90-day rotation,
10 so they sent me up there, and I wasn't -- I didn't
11 really like the schedule at the time and I preferred
12 patrol, so I ended up going back downstairs.
13 Q. Did you get any specific -- special
14 training while you were in the detective bureau for
15 those 90 days?
16 A. Not that I remember.
17 Q. Let's see. Did you make any
18 investigation -- strike that.
19 Let me show you what's been marked as
20 H-6. If you could go to what's Parks probable cause
21 affidavit?
22 MR. RUBENSTEIN: Which one?
23 MR. SEXTON: The last one, page --
24 MR. RUBENSTEIN: There's two
25 complaints in this stack.

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1 THE WITNESS: Okay.
2 MR. RUBENSTEIN: Two different
3 complaints.
4 MR. SEXTON: Parks 21.
5 MR. RUBENSTEIN: He's going by the
6 Bates stamp number.
7 THE WITNESS: Okay.
8 BY MR. SEXTON:
9 Q. So the -- this is the affidavit of
10 probable cause of Lyszyk. You've seen this before,
11 right?
12 A. No, I don't believe I ever read the complaint
13 before.
14 Q. Were you involved in the investigation
15 in this matter in any way?
16 A. No.
17 Q. Who did the investigation?
18 A. Lieutenant Velez.
19 Q. And you're the commander of the unit,
20 though?
21 A. Yes.
22 Q. So you reviewed it after he did it?
23 A. I don't remember having read through the
24 entire complaint. I think this is the first time I
25 am looking at it.

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1 Q. This is the first time you're looking
2 at it? It's fair to say that this is the highest
3 profile complaint you have in the department; is
4 that fair to say?
5 MR. RUBENSTEIN: Objection as to
6 form. You can answer if you can.
7 A. I am. I'm not sure if it is or isn't.
8 Q. Has 60 Minutes done many other full
9 segments on any other cases involving the
10 department?
11 MR. RUBENSTEIN: Objection as to
12 form. You're mischaracterizing it, but you can
13 answer.
14 A. I don't know if it was on 60 Minutes.
15 Q. Yeah. It was 60 Minutes, it was on
16 CNN, it was MSNBC, it was on French TV, Swedish TV,
17 English TV, Chinese TV.
18 MR. RUBENSTEIN: Do you have a
19 question?
20 MR. SEXTON: Yes.
21 MR. RUBENSTEIN: Good. Ask the
22 question.
23 BY MR. SEXTON:
24 Q. The question is: Is there any
25 other -- tell me any other case that's in the

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1 department that has had near the public interest
2 that this case has had.
3 MR. RUBENSTEIN: Objection as to
4 form, but you can answer.
5 A. I don't know. I wouldn't be able to compare
6 any of them.
7 Q. But is there anyone that you think
8 might be near it? Because maybe I'm wrong, maybe 60
9 Minutes has done a lot of investigations into the
10 department.
11 MR. RUBENSTEIN: Objection --
12 A. It's --
13 MR. RUBENSTEIN: Hold on. Objection
14 as to form. You keep mischaracterizing what the
15 story is about. So I'd appreciate it if you would
16 not do that. You can answer if you can.
17 A. Yeah, I would have to speculate. I'm not
18 really sure.
19 Q. But as you sit here, can you think of
20 another high profile --
21 A. Is there a question, about the high profile
22 what?
23 Q. Another high profile case?
24 MR. RUBENSTEIN: Objection, but you
25 can answer.

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1 A. The most recent thing that I can think of is
2 perhaps the Daniels-Porter matter. But how they --
3 I don't know how you compare one to the other.
4 Q. And that was -- you mentioned that was
5 brought up at a council meeting, and Daniels-Porter
6 is a black guy, I guess?
7 A. Yes, he is a black man.
8 Q. And what was alleged in this case?
9 A. Excessive force.
10 Q. And what happened to him allegedly or
11 actually?
12 A. He alleged that the officers used excessive
13 force while arresting him, groped his genitals and,
14 you know, called him "boy," I think was the crux of
15 it.
16 Q. What media outlets had stories on it?
17 A. I saw it in the local newspapers, local news
18 on-line. I'm not sure if it was carried anywhere
19 else.
20 Q. So page 21, this is the first time you
21 are looking at this?
22 A. That I can remember, yes.
23 Q. The first sentence of this affidavit
24 says, "While investigating a shoplifting of \$39
25 worth of merchandise from Hampton Inn, the hotel

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1 manager, Richard Charneco, C-h-a-r-n-e-c-o, advised
2 us that Parks was the suspect."
3 That's a false statement, is it not?
4 MR. RUBENSTEIN: Objection as to
5 form. Answer if you can.
6 A. I don't know if it is or isn't.
7 Q. Do you know how Parks came to be
8 associated with this case?
9 A. Ultimately how he became involved with it, is
10 that what you're asking me?
11 Q. Initially, intermediary, how did he
12 get -- how is he involved in this case?
13 A. He was identified as the suspect in the
14 shoplifting and the assault.
15 Q. How did that happen?
16 A. Based on what I know, it was based on the
17 identification of Officer Lyszyk and the
18 identification through the facial recognition
19 through the ROIC, which sent it out to somebody
20 else.
21 Q. Okay. So when was the facial
22 recognition done?
23 A. The specific date, I'm not certain of that.
24 Q. It was done after the incident, right?
25 A. Correct.

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1 would have to look through our policies to get other
2 ones or be more specific.
3 Q. I mean, an affidavit is a sworn
4 statement, correct, an affidavit?
5 A. Yes, I believe it is.
6 Q. It's actually criminal to make a false
7 statement in an affidavit, isn't it?
8 MR. RUBENSTEIN: Objection to form.
9 A. To purposely make a false statement, I
10 believe it is. Purposely or knowingly.
11 Q. Yet no one brought to this the -- your
12 attention even though the author of this report
13 admitted under oath in August that that was a false
14 statement in his affidavit and this is the first
15 you're hearing about it?
16 MR. RUBENSTEIN: Objection as to
17 form. You can answer.
18 A. Nobody told me about that.
19 Q. Now you said that you understood that
20 Lyszyk made an identification of Parks based on his
21 eyewitness experience of the perpetrator, correct?
22 A. Based on the information that I received.
23 Q. Okay. Can you take some time and look
24 through this affidavit of probable cause and point
25 out where -- anywhere that Lyszyk make such a sworn

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1 Q. So -- and the hotel manager Richard
2 Charneco was not privy to the facial recognition
3 process, was he?
4 MR. RUBENSTEIN: Objection as to
5 form, if you know.
6 A. Not to my knowledge.
7 Q. So how could the hotel manager Richard
8 Charneco have advised the Woodbridge Police that
9 Parks was the suspect?
10 A. I'm not certain. Based on what's written
11 here, I'm not certain.
12 Q. When Lyszyk was deposed, he conceded
13 that that was a false statement.
14 MR. RUBENSTEIN: Objection as to
15 form. Go ahead.
16 A. Okay.
17 Q. So he was deposed in August.
18 Has your office done any
19 investigation -- is it a problem if somebody makes
20 a -- makes false statements of fact in an affidavit
21 of probable cause?
22 A. I would say, yes.
23 Q. Okay. What rules and regulations does
24 that -- such a thing implicate?
25 A. Off the top of my head, truthfulness. I

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1 statement?
2 A. Can you repeat the question one more time? I
3 just want to make sure I got it.
4 Q. Yes. Is there anywhere in this
5 affidavit of probable cause where Officer Lyszyk
6 states that he identified Parks?
7 A. It doesn't say that in this document, no.
8 Q. Are you aware of all the exonerating
9 evidence that Woodbridge Police Department ignored
10 or put to the side in this matter?
11 MR. RUBENSTEIN: Objection as to
12 form. You can answer.
13 A. I don't know that there is any.
14 Q. You're not aware of any exonerating
15 evidence?
16 A. As far as -- pertaining to the internal
17 affairs investigation or pertaining to the criminal
18 investigation?
19 Q. Pertaining to the charges against my
20 client.
21 MR. RUBENSTEIN: I am not sure that
22 answers his question. And I'm not sure what you're
23 asking him.
24 A. Based on what I know, following Mr. Parks'
25 arrest and release, there was extrapolatory evidence

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1 that came to the forefront that led to the charges
2 being dismissed and another person being charged.
3 Q. What -- so that evidence which allowed
4 Mr. Parks to be released and to identify another
5 person as the actor, what is your knowledge of that
6 evidence?
7 A. Well, I think he was released on his own
8 without the evidence. But there was a handprint I
9 believe and there was some DNA evidence that was
10 recovered.
11 Q. By handprint you mean a fingerprint?
12 A. I think it was a palm print or a handprint.
13 Q. And how do you know about the print?
14 A. There was followup to the investigation that
15 was in the reports.
16 Q. Do you know why no lineups or photo --
17 what's it called? Photo -- what's the --
18 A. Photo array.
19 Q. Photo array. Why a photo array or a
20 lineup was not done?
21 A. No, I don't know.
22 Q. Do you know that -- that at the scene
23 at the Hamilton Inn the actor you've been describing
24 was over 6-foot?
25 MR. RUBENSTEIN: Objection as to

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1 form. You can answer.
2 A. I'm not familiar with that.
3 Q. You do know -- the print of the DNA
4 evidence, do you know the name of the person that
5 ultimately matched?
6 A. I don't remember his name.
7 Q. If I told you it was Barrington
8 Walker, does that refresh your recollection?
9 A. That sounds familiar, yes.
10 Q. Do you know he's over 6 feet tall?
11 A. No.
12 Q. You didn't know that?
13 A. No, I'm not aware of that.
14 Q. By the way, your understanding of the
15 prints, do you know when that exonerating evidence
16 was obtained by the department?
17 MR. RUBENSTEIN: Objection as to form
18 and the use of the word exonerating.
19 A. When the prints were collected?
20 Q. Yeah.
21 A. I guess they were collected the same day that
22 the incident occurred.
23 Q. Do you know when the results came
24 back?
25 A. No.

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1 Q. If I told you they came back on -- do
2 you remember the day of the incident?
3 A. No, not exactly.
4 Q. If I told you the day of the incident
5 was January 26, does that refresh your recollection?
6 A. I remember it was the beginning of the year.
7 Q. And that the prints -- print match was
8 made on the 14th of February?
9 A. Okay.
10 Q. Were you aware of that time frame?
11 A. No. Well, I mean, I knew that they submitted
12 the prints at some point, I didn't know the exact
13 time when they came back.
14 MR. SEXTON: Mark this Barrett 1, I
15 guess.
16 (Whereupon, photocopy of driver's
17 license, Tennessee, was received and marked as
18 Exhibit No. B-1 for identification.)
19 BY MR. SEXTON:
20 Q. Do you recognize this?
21 A. Well, this is a license that reports to be
22 Jamal Owens. Other than that, no.
23 Q. So you never saw this before?
24 A. Well, I have seen it before, but, I mean,
25 it's -- it's been a while since I looked at any of

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1 these things.
2 Q. So looking at -- if I tell you that
3 that's the fake ID that was used by the perpetrator
4 on the 26th at the Hampton Inn, does that refresh
5 your recollection?
6 A. Yes.
7 Q. And then furthermore, that all the
8 testimony was that this was the -- this was an
9 accurate photo of the -- even though it was a false
10 license, it was an accurate picture and the ID
11 matched up with the actor?
12 MR. RUBENSTEIN: Okay, that's fine.
13 A. Yeah, I believe so.
14 Q. And you see it gives a height there of
15 6'2"?
16 A. Yes.
17 Q. And if I told you that the reports
18 were consistent with that and said that he was a
19 person of 6 feet or more?
20 MR. RUBENSTEIN: Objection as to
21 form. I'm sorry.
22 BY MR. SEXTON:
23 Q. Do you remember that now?
24 MR. RUBENSTEIN: Objection as to
25 form.

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1 A. It's a false document, it could have any
2 height on there. I mean, just by its nature,
3 nothing is reliable on this.
4 Q. So you don't remember the report
5 saying that the suspect was over 6 feet?
6 A. I don't remember anything over -- I would
7 have to look at the CAD reports or anything else
8 that had the suspect description in it from the
9 scene.
10 Q. Do you know how tall Nijeer Parks is?
11 A. No, I don't remember.
12 Q. If I told you he's 5'7"?
13 MR. RUBENSTEIN: Objection as to
14 form. If you know.
15 A. Yeah, I don't know for certain.
16 Q. Do you know that they retrieved a
17 sneaker from the scene that fell off the foot of the
18 actor?
19 A. Yeah, I think I remember reading that.
20 Q. Do you know that was like a size 12
21 and a half?
22 A. I don't recall the size.
23 Q. I am trying to find the report that
24 discusses his height.
25 Are you aware of any -- strike that.

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1 Are you aware of any other evidence
2 other than the facial recognition hit that tied
3 Nijeer Parks to the events at the Hampton Inn?
4 A. I thought that there was an eyewitness or
5 Officer Lyszyk identified Mr. Parks based on the
6 comparison.
7 Q. We saw that that was not in his
8 affidavit of probable cause, correct?
9 A. That was not --
10 MR. RUBENSTEIN: Objection as to
11 form, but you can answer.
12 A. It wasn't in the affidavit, no.
13 Q. Do you know the circumstances of how
14 Nijeer Parks ended up at the police department?
15 A. I believe he came in on his own after finding
16 out that there was a warrant out for him.
17 Q. Okay. Would you agree that that's
18 pretty unusual for a suspect to come down to the
19 department?
20 MR. RUBENSTEIN: Objection as to
21 form. You can answer.
22 A. People do it. People come in and turn
23 themselves in on warrants. Not very frequently, but
24 it happens.
25 Q. Do you know further that Mr. Parks

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1 said he'd never been in Woodbridge before that time
2 he came down to the police department?
3 A. If he said that? I think I read that
4 somewhere. I can't remember exactly what the source
5 was. And I don't know if it's true or not.
6 Q. So the report of Lee states that
7 Richard Charneco, the manager, stated that the
8 suspect was about 5'10" to 5'11".
9 MR. RUBENSTEIN: Is there a question?
10 BY MR. SEXTON:
11 Q. So would you agree that 5'7" is
12 significantly shorter than the height provided by
13 the manager?
14 MR. RUBENSTEIN: Objection as to
15 form. You can answer.
16 A. It's different. In my experience eyewitness
17 sometimes don't get information completely accurate.
18 MR. SEXTON: Off the record.
19 (Whereupon, at 3:05 p.m., a recess was
20 taken.)
21 (Whereupon, at 3:10 p.m., the deposition
22 resumed.)
23 BY MR. SEXTON:
24 Q. Did you generate that report?
25 A. No, I don't think I -- did I? I don't think

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1 so.
2 Q. Is that a report generated from the
3 same database that you generated the other reports
4 that we previously discussed?
5 A. It's not a database, it's just each officer
6 has its own Excel spreadsheet that lists whatever
7 allegations of misconduct.
8 Q. So Officer Lyszyk has three sustained
9 charges of misconduct?
10 A. Yeah. Based on that.
11 Q. Now, is it also possible to generate a
12 report with all the unsustained or not -- or
13 exonerated or -- what's the other category?
14 A. Unfounded.
15 Q. Unfounded. Can a report be generated
16 to list all allegations made and what happened to
17 them?
18 A. Yes.
19 Q. I mean, because clearly it's -- nobody
20 has a hundred percent allegations -- sustained
21 allegations, right?
22 MR. RUBENSTEIN: Objection as to
23 form.
24 BY MR. SEXTON:
25 Q. Almost every police officer has false

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1 allegations or allegations that are found to be
2 unfounded?
3 MR. RUBENSTEIN: Objection as to
4 form.
5 A. Most officers have a variety of different
6 dispositions and complaints, yes.
7 Q. So this snapshot is probably only part
8 of the picture?
9 MR. RUBENSTEIN: Objection as to
10 form. Go ahead.
11 A. I believe it is, yes.
12 Q. The letter of reprimand that he was
13 given back in 2014 was before your time, but if
14 you -- it involves arresting the wrong person for a
15 warrant?
16 A. It may. I don't know the specifics of the
17 case.
18 Q. It's attached if you want to look at
19 it.
20 A. Oh, okay.
21 Q. I think it's the second -- the next
22 page, I think.
23 A. Yes, that's what the letter says.
24 Q. And that was sustained, correct?
25 A. Correct.

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1 Q. So that clearly would be relevant to
2 the allegations in this matter, would it not be?
3 MR. RUBENSTEIN: Objection as to
4 form.
5 A. The allegations in regards to what?
6 Q. Arresting the wrong person?
7 A. You're talking about the internal affairs
8 complaint?
9 Q. No. That --
10 A. Oh, you're talking about --
11 Q. -- Lyszyk, one of the main officers
12 involved in this case, this case being that Nijeer
13 Parks, who was wrongly arrested?
14 A. According to the civil lawsuit.
15 Q. Well, pertaining also to the IA
16 investigation, you investigated the wrongful arrest
17 of Nijeer Parks, right?
18 A. Yeah, Lieutenant Velez did.
19 Q. Your office that you command, right?
20 A. Yes.
21 Q. Okay. And so Lyszyk being the -- one
22 of the main officers, the officer who submitted a
23 false affidavit of probable cause, had a previous
24 sustained discipline for arresting the wrong person?
25 MR. RUBENSTEIN: Objection as to

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1 form. You can answer.
2 BY MR. SEXTON:
3 Q. Correct?
4 A. He did, but that investigation would not be
5 part of the current investigation.
6 Q. So an officer's past misconduct about
7 an identical nature of the instant alleged
8 misconduct has no relevance in an investigation?
9 MR. RUBENSTEIN: Objection as to
10 form.
11 A. It would as far as discipline is concerned if
12 there's a sustained finding for probable --
13 Q. For progressive discipline?
14 A. For progressive discipline.
15 Q. What about for credibility and for
16 evaluating what happened? For instance, if a
17 person's got -- typically, you know, there will be a
18 cop whose name always comes up, right, you know, you
19 always see the same characters over and over, right,
20 and there's somebody who's always involved
21 demeanor, who's always alleged to use the "N" word
22 or this or that, and, you know, it's not sustained,
23 not sustained, not sustained, but then after ten of
24 them, one gets sustained. Have you ever seen such
25 fact patterns?

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1 MR. RUBENSTEIN: Objection as to
2 form.
3 A. You can say the same thing about someone with
4 a criminal history.
5 Q. Right. Human conduct. But here we're
6 dealing with cops who sometimes are on both sides of
7 the aisle here sometimes, right?
8 MR. RUBENSTEIN: I'm sorry, I'm
9 completely confused by what you're asking. Can you
10 calm down and maybe ask him something simple and
11 straightforward than this garbage that you're
12 pulling? Ask him a question. Because you've been
13 doing it a number of times today, and we're here to
14 try to get answers that are to your questions. But
15 if you're going to go on a diatribe, it makes no
16 sense. It's going to get confusing.
17 MR. SEXTON: Well, I don't know, it's
18 so obvious that --
19 MR. RUBENSTEIN: I don't think it's
20 obvious at all.
21 BY MR. SEXTON:
22 Q. If a guy has a past sustained
23 aggressive force for beating up somebody, say, and
24 then he's accused of it again, are you telling me
25 that the first time he did it that's it's sustained

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1 it's irrelevant to your investigation?
2 MR. RUBENSTEIN: Objection as to
3 form.
4 A. Each investigation is based on the facts
5 pertaining to that investigation, not prior
6 investigations.
7 Q. So past bad acts have no relevance?
8 MR. RUBENSTEIN: Objection as to
9 form. He didn't say that.
10 A. Not pertaining to the investigation itself.
11 Q. Where did you learn that?
12 A. Unless there's some sort of direct nexus
13 between the two, which I can't imagine being the
14 case in this regard.
15 Q. So I'm curious, where did you learn
16 that principle?
17 A. What did --
18 Q. That you don't -- prior bad acts are
19 not relevant in investigations of current bad acts?
20 A. I think it only makes sense, I think it's
21 only logical.
22 Q. So how is it only logical?
23 A. Because if somebody makes an allegation that
24 this happened on this date and these were the
25 circumstances, that's what you look into pertaining

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1 to that complaint. You don't roll back the clock
2 five years or six years, I'm not really sure what it
3 is at this point, and somehow drawn an inference
4 from five, six years ago. I don't understand how
5 that would make sense.
6 Q. Do you know that the New Jersey Rules
7 of Evidence allow that in civil trials, for
8 instance, prior bad acts to be used?
9 MR. RUBENSTEIN: Objection as to
10 form.
11 BY MR. SEXTON:
12 Q. Did you know that?
13 A. No.
14 Q. That's also used -- the Rules of
15 Evidence allow to become for character evidence
16 prior bad acts?
17 MR. RUBENSTEIN: Objection to form.
18 Are you asking him -- he's supposed to be an expert
19 on the Rules of Evidence. I'm sure that he's not.
20 And I'm sure he's not supposed to be. So can we --
21 please.
22 BY MR. SEXTON:
23 Q. Do you know reputation can be used
24 also, if a person has a reputation for certain
25 conduct, that can be used?

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1 MR. RUBENSTEIN: Objection as to
2 form.
3 A. I believe that to be true. But as I said, I
4 don't know all the rules that you're speaking of.
5 Q. And as an IA investigator, you would
6 never use a cop's reputation in trying to figure
7 out -- get to the bottom of allegations?
8 A. The investigations are supposed to be
9 objective, not subjective.
10 Q. So a reputation is never helpful?
11 A. The facts are what make the case, the
12 evidence that's available. The statements that
13 whatever complainants make, you know, the
14 participation that we get from the complainant, the
15 witnesses, and the involved offices, these are all
16 things that play into the investigation, not, you
17 know, what somebody's writing on Facebook on their
18 days off, you know. Not, you know, how well, you
19 know -- you know, what people generally think of
20 this person.
21 Q. Are you -- have you testified at a lot
22 of criminal matters?
23 MR. RUBENSTEIN: Objection as to
24 form.
25

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1 BY MR. SEXTON:
2 Q. Or any?
3 A. Mostly -- mostly DWI, at least one criminal
4 trial, suppression hearing.
5 Q. So could you maybe be confounding the
6 standards in a criminal trial where the rules are
7 very, very strict about not bringing in other things
8 into the criminal trial?
9 MR. RUBENSTEIN: Objection as to
10 form.
11 A. I've never been trained to look at past
12 investigations for an officer and bring them forward
13 into a current investigation or to consider their
14 character, unless their character is what is the
15 subject of the investigation where it would be a
16 demeanor complaint or something of that nature.
17 Q. Some people have a reputation for
18 being liars, right, we all know them, right? And
19 you must be -- there must be some members of the
20 department whom you don't trust?
21 MR. RUBENSTEIN: Objection as to
22 form.
23 BY MR. SEXTON:
24 Q. Or you can't think of a one?
25 A. Are there some people I trust more than

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1 others? There's -- I don't know that there's any I
2 would not trust at all.
3 Q. Fair enough. Some you trust with
4 everything, you trust them with your -- and there's
5 other people you go like, "huh," take it with a
6 grain of salt?
7 A. Perhaps. Depending on the circumstances,
8 too. You know, there are personal times you deal
9 with people and professionals in another realm.
10 Q. In your investigations, do you get
11 uncooperative targets?
12 A. Officers?
13 Q. Yes.
14 A. Not that I can remember.
15 Q. I'll show you what has been marked as
16 H-7. This is the request for facial recognition.
17 Do you remember ever seeing that?
18 A. No, not specifically, no.
19 Q. There's a paragraph up here that I
20 just read into the record before, the director, it
21 says after -- it says three times "not evidence"?
22 A. Okay.
23 Q. Not to be used as an investigative
24 lead only. Then I think in all caps it says,
25 "investigative lead only," what does it say?

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1 A. "Not probable cause to make an arrest."
2 Q. Not probable cause to make an arrest,
3 okay.
4 In this case it looks like the
5 department did the opposite, they used facial
6 recognition technology as the sole basis for making
7 an arrest?
8 MR. RUBENSTEIN: Objection as to
9 form. That's not what the testimony has been. You
10 can answer.
11 A. No, I don't believe so. Based on my
12 knowledge of the case, no.
13 Q. What was the -- what was the main
14 evidence here?
15 A. That -- that Officer Lyszyk was also part of
16 the probable cause establishing the identity of the
17 suspect.
18 Q. But we went over that that's not in
19 the affidavit.
20 A. But I can't change my recollection of what I
21 knew back then or at the time or what was known back
22 then.
23 Q. There has been -- none of these
24 officers have been disciplined, right?
25 A. No.

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1 Q. No corrective has been sent out to the
2 department about the use of facial recognition
3 technology, correct?
4 MR. RUBENSTEIN: Objection as to
5 form.
6 A. So far as I know, it has not been employed
7 again, and I don't even know if it was ever
8 employed --
9 Q. That's not the question. Has any
10 instruction, general order or anything -- what's
11 the --
12 A. PowerDMS.
13 Q. PowerDMS saying this is to be used
14 only as an investigative lead?
15 A. Not that I remember.
16 Q. And what's the difference between an
17 investigative lead and evidence?
18 A. I guess an investigative lead gives you a
19 starting point, gives you an idea --
20 Q. Right. It can be anything, right?
21 A. -- of where to begin, yeah.
22 Q. Hunch, tea leaf, but it's not -- you
23 seem to be rightfully concerned about proofs, and an
24 investigative lead doesn't ever go into court,
25 correct?

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1 MR. RUBENSTEIN: Objection as to
2 form.
3 A. I don't know if it does or doesn't.
4 Q. I'm showing you H-10. This is Parks
5 318.
6 Have you seen this before?
7 A. Yes.
8 Q. Did you review it before it went out?
9 A. Yes, I read through it before it went out.
10 Q. Do you have to -- is that standard
11 that you review any -- as the commander, that you
12 would review any report like this?
13 A. Yeah, myself or Captain Kuzma.
14 Q. It doesn't have any cc's. Do you know
15 if this went to anyone else other than Captain
16 Kuzma?
17 A. A copy would have been retained for the file.
18 Q. Okay. Would it go to the police
19 director?
20 A. No.
21 Q. The mayor?
22 A. No.
23 Q. The business administrator? Nowhere
24 else?
25 A. No.

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1 Q. It's marked confidential, is anyone
2 else allowed to see it?
3 A. Only the three of us in the office and
4 Captain Kuzma have access to all the internal
5 affairs files and the office, the office is also
6 secure.
7 Q. So you're saying that this is -- the
8 director is not even given access to this?
9 A. I don't know if he saw it or if he didn't see
10 it. But -- I mean, generally all our files are --
11 that's why when it becomes to the discipline, we
12 present the facts of the case, that way we try not
13 to cross that line, you know. Because, yeah,
14 they're not allowed access to our office, they're
15 not allowed to be in there unless we are in there.
16 Q. Who is "they"?
17 A. The directors.
18 Q. Why is that?
19 A. They're civilian.
20 Q. So the civilian person running the
21 department is not allowed in the office without you
22 being there?
23 A. No.
24 Q. And what do you base that -- where
25 does that come from?

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1 A. From the attorney general guidelines I
2 believe.
3 Q. Do you know what the rationale for that
4 is?
5 A. To maintain the integrity of the filing
6 system. Only certain people are supposed to have
7 access to the files in the filing system.
8 Q. Do you know -- can you cite the AG
9 guideline for that?
10 A. It would be in the internal affairs policies
11 and procedures. I think the latest revision came
12 out the end of last year, perhaps, December 2021.
13 But the filing system preexisted those directors, so
14 it may have been based on an older one. I don't
15 recall.
16 Q. So the director is the one who
17 disciplines officers, right?
18 A. Yes.
19 Q. So how does he do that without getting
20 access to those reports and these files?
21 MR. RUBENSTEIN: Objection as to
22 form. As you can see, there was no punishment here
23 to be meted out, so why would he need to see it?
24 It's an improper question.
25 MR. SEXTON: No, it's not improper.

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1 MR. RUBENSTEIN: Sure it is.
2 A. We present -- the chief -- the chief law
3 enforcement officer Captain Kuzma, he gets the
4 report, he reviews the reports, and then we
5 conference with the director's office, you know, the
6 director, deputy director, if appropriate, and then
7 based on the circumstances, the nature of the
8 misconduct, and the officer's history pertaining to
9 that type of misconduct or other misconduct, that's
10 how they decide what type of discipline is metered
11 out.
12 Q. What -- do you have lawyers who
13 present the case at the departmental hearings?
14 A. Our labor attorneys, yes, I believe they
15 assist us with that.
16 Q. Who are those?
17 A. Currently it's Coughlin's office, I can't
18 remember -- Lou Rainone, I think he's the -- in
19 charge of that.
20 Q. Lou?
21 A. Rainone, it's Rainone is the way it's
22 spelled, R-a-i-n-o-n-e, but I can't remember what
23 the name of their firm is.
24 Q. Do they get access to these reports?
25 A. Yeah. In order for them to present their

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1 case, yeah, they need to have access to these
2 reports. It becomes part of the discovery for the
3 departmental hearing.
4 Q. And to your attorney's point, it's
5 when it's sustained.
6 Why did this -- this report says on
7 December 28th Hubner got the summons and complaint.
8 And this is dated December -- a year later -- a year
9 and a day later. Why did it take so long for this
10 to get written?
11 A. I'm not certain of that. Other than
12 sometimes when there's a lawsuit involved, they tell
13 us to put the brakes on things to see what's going
14 to happen next. One of the things in the internal
15 policies and procedures they say if there's a
16 lawsuit involved, generally to confer with counsel
17 to see what appropriate steps would be taken in
18 regards to the internal affairs complaint.
19 Q. So those -- the 35-day rule or the
20 45-day rule, they're kind of preempted by litigation
21 considerations?
22 A. There are allowances for the investigative
23 45-day rule where it's permissible to go past 45
24 days if there's sufficient reason to do so. And I
25 think it's pretty -- spelled out pretty clearly in

Pages 77 to 80

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1 the internal affairs policies and procedures that
2 the tort claim is generally one of them.
3 Q. Under the findings conclusions, it
4 states that Parks never made a formal internal
5 affairs complaint?
6 A. No.
7 Q. So am I reading this correctly that
8 from that fact Lieutenant Velez made an adverse
9 inference?
10 MR. RUBENSTEIN: Objection as to
11 form. If you know what an adverse inference is.
12 A. Could you explain that to me?
13 Q. Sure. Sort of like he said, he
14 didn't -- he never made a complaint, and when we
15 contacted him, he never -- he never responded. So,
16 therefore, that makes me think there's nothing here?
17 A. No, the --
18 Q. Then why is that related under
19 findings conclusion?
20 A. Because we do our best to reach out to any
21 complainants or victims to get their input so that
22 we can know how to best proceed with the
23 investigation. Absent that, it makes it much more
24 difficult for us to do our jobs.
25 Q. Well, the next paragraph immediately

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1 following that he says, "I find that Detective Tapia
2 acted in good faith." He doesn't mention Lyszyk.
3 Why is Tapia the only -- I guess Tapia was the only
4 target?
5 A. Yes, I believe he was.
6 Q. And how did you decide that Tapia was
7 the only target?
8 A. He was the primary investigator and he was
9 the one who submitted the evidence that was relative
10 to the matter.
11 Q. Well, why wasn't Lyszyk also a target?
12 A. I didn't know that it was appropriate at the
13 time.
14 Q. As you sit here today, would you
15 concede that Lyszyk should have been a target of the
16 investigation, as well?
17 MR. RUBENSTEIN: Objection as to
18 form.
19 A. I don't -- I don't know that. Again, knowing
20 what I know now, I know some different things that I
21 may have to look into going forward. But at the
22 time I don't think that it was appropriate.
23 Q. So are you going to open an
24 investigation on Lyszyk now?
25 THE WITNESS: Can I ask you a

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1 question? Is this improper? I don't know if we
2 should put this on the record or not pertaining to
3 you stated that he says he admitted that he made a
4 false statement in that affidavit?
5 MR. SEXTON: Yes.
6 THE WITNESS: Right. Would I be able
7 to get a transcript of that affidavit? Transcript
8 of the statement that he made?
9 MR. SEXTON: Yes, your lawyer has
10 that.
11 THE WITNESS: Because I would like to
12 see the context of that conversation and
13 determine -- you know, you implied that he, you
14 know, made a false report or false -- you know, a
15 false swearing or whatever the case may be. And
16 like I said, if it was intentional in some way, then
17 that's definitely something that we are going to
18 have to address going forward. But I wasn't aware
19 of that until earlier today now.
20 BY MR. SEXTON:
21 Q. I think Velez makes a funny statement
22 here, he goes, "I reviewed the photographs of
23 Mr. Parks in the high profile comparison and they
24 are similar and could be mistaken for the same
25 person." So the potential for them being mistaken

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1 is a basis for saying there's no claim here?
2 MR. RUBENSTEIN: Objection. I'm
3 sorry, no claim meaning -- he's here to testify
4 about internal affairs, not the civil case. You're
5 asking no claim, I don't understand what that means.
6 BY MR. SEXTON:
7 Q. Well, he says that, yeah, you can make
8 a mistake, and if you base an arrest on an affidavit
9 of probable cause on a mistake, that he says he
10 could make a mistake, he doesn't say it could not be
11 mistaken, they're the same person. That they are
12 not the same person. He says, you know, this is --
13 MR. RUBENSTEIN: I'm sorry, if you
14 understand what he's saying, you can answer it, but
15 I'll object to the form because it's convoluted.
16 BY MR. SEXTON:
17 Q. Yeah, it is. And could be mistaken as
18 the same person. Does that sound very strong?
19 A. It doesn't sound strong, but mistakes do
20 happen, mistakes are made. I don't think there was
21 any malice made. And on top of that, Lieutenant
22 Velez is also looking backwards at this knowing more
23 than they knew then at the time.
24 Q. Oh, really, because you know what's --
25 where in here does it talk about the exonerating

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1 evidence?
2 A. Well, the complaint was is that he was
3 improperly arrested.
4 Q. Where does it mention the
5 fingerprint -- the print that goes to Barrington
6 Walker?
7 A. That all came following the arrest. The
8 complaint was that he was improperly arrested. So
9 the investigation was to see whether or not the
10 officers acted improperly or lack some sort of
11 justification for their actions.
12 Q. But isn't the point --
13 A. Not the -- not to convict or exonerate, you
14 know, whoever may have been responsible ultimately.
15 Q. Wasn't it the point that they
16 shouldn't have made any arrest until they got the
17 prints matched?
18 MR. RUBENSTEIN: Objection to the
19 form.
20 A. As far as the submission of the fingerprints,
21 I don't know enough specifics about that.
22 Q. This was H-9. Do you recognize that?
23 A. I'm not really sure. This is an NCIC
24 response?
25 Q. Yeah. Do you see the date?

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1 A. 2/14?
2 Q. Yeah, 2019?
3 A. Yes.
4 Q. So three weeks after the incident?
5 MR. RUBENSTEIN: Objection.
6 BY MR. SEXTON:
7 Q. Fourteen days after the wrongful
8 accusatory instruments were issued?
9 MR. RUBENSTEIN: Objection as to
10 form.
11 BY MR. SEXTON:
12 Q. And what does it show?
13 A. It shows here, result of your inquiry it
14 says, "Walker Barrington," and I guess -- okay, I
15 guess this is a fingerprint hit?
16 Q. Yeah.
17 A. Matching Mr. Walker's fingerprints?
18 Q. Yes. And that is not mentioned in
19 Velez' report, is it?
20 A. No, because it didn't preexist the probable
21 cause for the arrest.
22 Q. Yeah, but the probable cause is based
23 on a facial recognition hit, which the form says,
24 "Not to be used as a basis for probable cause."
25 MR. RUBENSTEIN: Objection as to

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1 form. That is not what he's testified to and you've
2 repeatedly said the same bull crap. Now would you
3 please make sure that you ask questions that are
4 consistent with what his testimony and other's
5 testimony has been. You are deliberately misleading
6 the witness. And that is improper.
7 He has said repeatedly that if the
8 facial recognition software and the outcome of
9 that -- and the picking out of the person by Lyszyk.
10 And you keep saying it's exclusively based on facial
11 recognition, which is complete fabrication.
12 MR. SEXTON: Because he now knows
13 having looked at the affidavit --
14 MR. RUBENSTEIN: He now knows
15 nothing --
16 BY MR. SEXTON:
17 Q. Now having looked at the affidavit of
18 probable cause for the first time, now knows that
19 there's no such statement in the affidavit of
20 probable cause. So based on that, and presumably
21 Velez read the affidavit of probable cause, would
22 you concede that Velez should have included the
23 information about the fingerprint hit in his report?
24 A. No.
25 Q. This report was done in 2021 -- the

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1 end of 2020?
2 A. End of 2020, yes.
3 Q. You know, too, that -- because you
4 testified that the DNA evidence subsequently
5 confirmed also hit with Barrington Walker?
6 A. Yeah. I believe that came back a long time
7 after that.
8 Q. Right. But that had the effective --
9 conclusively tying Barrington Walker to the events
10 on January 26, correct?
11 A. Yeah, I believe that's what led them to
12 charge him.
13 Q. And pretty conclusively exonerated
14 fully and finally Nijeer Parks?
15 A. I believe the -- that he was -- all his
16 charges were dismissed long before Mr. Walker was
17 charged, if I'm remembering correctly.
18 Q. Right. But sometimes the prosecutor
19 will dismiss something and it's just because he
20 doesn't have his case together, not because the guy
21 is innocent as driven snow or something, right?
22 MR. RUBENSTEIN: Objection as to
23 form. If you can answer.
24 A. I don't know what the prosecutor's motivation
25 was.

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1 Q. But in this case, given the DNA and
2 the fingerprints, we know that Nijeer Parks was as
3 innocent as the driven snow for the charges that
4 your department brought against him on January 1,
5 2019, correct?
6 (Reporter asked for clarification.)
7 Q. Because of the DNA and the
8 fingerprint, we know now that Nijeer Parks is as
9 pure as the driven snow and innocent of the charges
10 that your department wrongfully brought against him
11 on January 1st of 2019, correct?
12 MR. RUBENSTEIN: Objection as to
13 form. You can answer.
14 A. Based on knowing what we knew once we got all
15 that other information back, that he was mistakenly
16 arrested -- or mistakenly charged, but I still don't
17 see that the officers acted improperly or with any
18 sort of malice or any sort of misconduct. They made
19 a mistake that ultimately was rectified. And it's
20 unfortunate that he was arrested, but --
21 Q. He spent time, a couple weeks in jail,
22 spent until November fighting the charges on the eve
23 of trial, he was threatened with 25 years in jail.
24 That's unfortunate.
25 What about -- oh, malice. Where do

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1 you -- maybe I'm confused, but is malice an
2 element -- a necessary element for you to find a --
3 to sustain a charge?
4 A. No. But if an officer acts in bad faith or
5 with some sort of evil in their heart, that's
6 definitely -- that would definitely be misconduct.
7 Q. In this case this involved an assault
8 on an officer, I understand how that's upsetting,
9 right?
10 A. It could be to some, yes.
11 Q. I mean, any decent person would be
12 upset that the idea that a law enforcement officer
13 would be assaulted. And it was a real assault, the
14 actor tried to run over Officer Lee, right?
15 A. Yeah. Based on what I read, yes.
16 Q. So it's clear from communications that
17 people were, I guess the term would be, ginned up to
18 find the perpetrator?
19 MR. RUBENSTEIN: Objection as to
20 form.
21 A. I don't know that I would characterize it
22 that way.
23 Q. Do you know that the -- there's emails
24 back and forth between Tapia and I think it's Day up
25 at the ROIC, and he's thrilled, "How did you find

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1 him?" And then Day reports that -- that he altered
2 the pixels on the photograph before finding --
3 having a high profile hit.
4 MR. RUBENSTEIN: Objection as to
5 form.
6 BY MR. SEXTON:
7 Q. Are you aware of that?
8 A. No. And I just want to be clear, that was
9 the officer at the ROIC, not officer -- or Detective
10 Tapia.
11 Q. Right. But he told Tapia that he
12 altered the pixels on the photo in order to get a
13 high profile hit?
14 A. I don't know if that's --
15 MR. RUBENSTEIN: Objection as to
16 form.
17 A. Yeah, I don't know if that's -- what kind of
18 technique or what specifically that means or if it's
19 permissible or not so --
20 Q. You know, on the very day they got the
21 hit, I believe they all drove out to Paterson to try
22 to arrest Nijeer. Does that also suggest a strong
23 motivation to arrest this actor -- bad actor because
24 of the attempted assault on Officer Lee?
25 A. Not necessarily. I've had shoplifters where

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1 I have driven to Elizabeth the same day I figured
2 out who they were to go lock up a shoplifter.
3 Q. But Elizabeth is next door, Paterson
4 is an hour plus away?
5 MR. RUBENSTEIN: Objection to form.
6 A. I don't think it's an hour plus away. Is it
7 that far? I go there not very often, but --
8 Q. There's no reason to go there.
9 A. New Jersey is a fairly small state anyway.
10 Q. Unless you're going to Cape May.
11 I don't think I asked you to look at
12 the sneaker, did I?
13 A. No.
14 Q. It's right there. And you can see it
15 looks like it's size 12 and a half?
16 A. Maybe a little bit bigger than 12. I'm
17 guessing that's in inches.
18 Q. And it's your evidence room so -- so
19 Nijeer Parks was a size 9.
20 MR. RUBENSTEIN: Objection as to
21 form.
22 BY MR. SEXTON:
23 Q. You'd agree that that's exonerating
24 evidence?
25 MR. RUBENSTEIN: Objection as to

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Page 93

1 form.
2 BY MR. SEXTON:
3 Q. Cinderella's slipper?
4 MR. RUBENSTEIN: Objection as to
5 form.
6 A. No, the stepsister's feet were too big, not
7 too small.
8 Q. Well, adverse Cinderella's slipper?
9 A. Well, I've seen -- personally I've seen
10 people wear shoes that were too big for them and
11 sometimes --
12 Q. Three or four sizes too big? Three
13 sizes too big?
14 A. Yeah, I've seen some strange things. And
15 sometimes if they're not almost falling off their
16 feet, sometimes people wear multiple layers of socks
17 and things like that.
18 Q. So you -- you believe the picture on
19 the license, but not the height in the license,
20 there's a sneaker and you assume it's -- doesn't --
21 it's not the right size. And these are all things
22 in possession immediately?
23 MR. RUBENSTEIN: Objection as to
24 form. You can answer.
25 A. Again, this was collected at the scene and

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1 they did not have Mr. Parks' feet at the scene to
2 compare it to.
3 Q. But that had it when they arrested
4 him? Well, before they arrested him, when they took
5 him in -- I guess they took him into -- initially
6 what was that, when they put him in handcuffs in the
7 lobby and brought him in for questioning? Would
8 that be -- he's arrested then, right, but it's still
9 an investigatory stage?
10 A. Yeah. They can still continue to compile
11 evidence relating to the offense, you know,
12 exculpatory or otherwise.
13 But again, that comparison was only able to
14 be made after the complaint was already issued.
15 Q. I think that's all I have.
16 MS. LEMPKA: I have nothing,
17 Lieutenant.
18 (Whereupon, at 3:49 p.m., the
19 deposition was concluded.)
20
21
22
23
24
25

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1 CERTIFICATE
2
3 I, LAURA BURNS, a Certified Court
4 Reporter and Notary Public of the State of New
5 Jersey, certify that the foregoing is a true and
6 accurate transcript of the stenographic notes of the
7 deposition of said witness who was first duly sworn
8 by me, on the date and place hereinbefore set forth.
9 I FURTHER CERTIFY that I am neither
10 attorney, nor counsel for, nor related to or
11 employed by, any of the parties to the action in
12 which this deposition was taken, and further that I
13 am not a relative or employee of any attorney or
14 counsel in this case, nor am I financially
15 interested in this case.
16
17 LAURA BURNS, C.C.R.
18 LICENSE NO. 30X100218200
19
20
21
22
23
24
25

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EXHIBIT “H”

Page 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 21-4021 (JXN)(LDW)

NIJEER PARKS,
Plaintiff,

vs. Deposition of:
ROBERT HUBNER
October 18, 2022

JOHN E. MCCORMAC, MAYOR OF WOODBRIDGE,
in his personal and official capacity,
ROBERT HUBNER, DIRECTOR OF THE WOODBRIDGE
POLICE, in his personal and official
capacity, CITY OF WOODBRIDGE POLICE
OFFICERS, ANDREW LYSZK and WOODBRIDGE
POLICE SGT. JOSEPH LICCIARDI, WOODBRIDGE
POLICE OFFICERS, JOHN AND JANE DOES 1-20,
being as yet unknown actors, MIDDLESEX
DEPARTMENT OF CORRECTIONS, JOHN AND JANE
DOES 1-20, being unknown actors, MIDDLESEX
COUNTY PROSECUTOR, ACTING PROSECUTOR
CHRISTOPHER KUBERIET, in his personal
and official capacity, and ASSISTANT
MIDDLESEX COUNTY PROSECUTOR, PETER NATASI,
and IDEMIA, INC.'S being the maker of the
facial recognition software and ABC
CORPORATION, being an as yet unknown seller
or servicer of the facial recognition
programs,
Defendants.

HUDSON COURT REPORTING & VIDEO (732) 906-2078

Page 2

TRANSCRIPT of the stenographic
notes of the proceedings in the above-entitled
matter as taken by and before LAURA A. BURNS, a
Certified Court Reporter of the State of New Jersey,
held at the office of JAMES P. NOLAN AND ASSOCIATES,
61 Green Street, Woodbridge, New Jersey, on Tuesday,
October 18, 2022, commencing at approximately 10:07
in the forenoon, pursuant to notice.

Page 3

APPEARANCES:

DANIEL W. SEXTON, ESQ., LLC
Attorneys for Plaintiff
229 New Center Road
Hillsborough, New Jersey 08844
danielsextonesq@gmail.com
BY: DANIEL W. SEXTON, ESQ.

DVORAK & ASSOCIATES
Attorneys for Defendant, Middlesex Department
of Corrections
467 Middlesex Avenue
Metuchen, New Jersey 08840
glempka@dvoraklegal.com
BY: GRACE LEMPKA, ESQ.

LAW OFFICE OF JAMES P. NOLAN & ASSOCIATES
Attorneys for Defendant, Township of Woodbridge
61 Green Street
Woodbridge, New Jersey 07095
frubenstein@jpnlaw.us
BY: FREDERICK L. RUBENSTEIN, ESQ.
GARRY CLEMENTE, ESQ.

Page 4

APPEARANCES:

STATE OF NEW JERSEY
Attorneys for Defendants, Middlesex County
Prosecutor, Acting Prosecutor Christopher
Kuberiet and Peter Natasi
25 Market Street
Trenton, New Jersey 08625
peter.sosinski@law.njoag.gov
BY: PETER SOSINSKI, ESQ.

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1 ROBERT HUBNER, 61 Green Street, Woodbridge, New
2 Jersey is duly sworn and testifies under oath as
3 follows:
4 DIRECT EXAMINATION BY MR. SEXTON:
5 Q. Good morning, Director Hubner, my name
6 is Dan Sexton, I represent the plaintiff in this
7 matter. Just a couple of preliminaries. Have you
8 ever been deposed before?
9 A. I have.
10 Q. Approximately how many times?
11 A. Probably two or three.
12 Q. And was that in -- related to your
13 position in the Woodbridge Police Department or in
14 your personal life?
15 A. Actually, I was on duty, so it had to do with
16 the police department. It was a motor vehicle
17 accident, so.
18 Q. Were you a third-party witness for a
19 motor vehicle accident?
20 A. Yes, yes.
21 Q. And when was that?
22 A. Oh, geez. A lot of years ago. Probably
23 2008, 2009, that's the last one.
24 Q. And did you also testify at trial in
25 that or just a deposition?

Page 7

1 A. No, just deposition.
2 Q. Any other --
3 A. It was all motor vehicle related in one
4 capacity or the other, but never as a civilian.
5 Q. So I'll just give you some refreshers
6 for ground rules. So as you can see, a record is
7 being made of this, so it's important that we make
8 our -- we communicate verbally since hand gestures
9 and nods can't be taken down by the reporter.
10 It's also important that we don't
11 speak over each other. And if you don't understand
12 one of my questions, I'm happy to try to rephrase
13 it.
14 From time to time your lawyer may
15 interject with objections, those are normally for
16 the record. If there comes a point where he
17 instructs you not to answer, then we'll hash it out.
18 Do you have any questions for me
19 before we begin?
20 A. I don't think.
21 Q. So what is your position with
22 Woodbridge?
23 A. I am the police director.
24 Q. And what are your duties as police
25 director?

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1 A. I oversee the department administratively, so
2 I'm responsible for budget, overseeing bills, make
3 sure they're paid, all the property that's owned by
4 the Woodbridge Police Department, inventory it. I
5 keep track of hirings, promotions, dismissals,
6 retirements. I report to the mayor on the actions
7 in what we're doing in the police department. I
8 also track crime trends and make sure there's
9 adequate staffing to address those issues, and I'm
10 responsible for final discipline.
11 Q. Now, are -- you're a civilian?
12 A. I am.
13 Q. And are you -- you're retired?
14 A. Yes.
15 Q. And you'd been a member of the
16 department?
17 A. That's correct.
18 Q. What year did you retire?
19 A. 2010.
20 Q. What year were you named director?
21 A. 2011.
22 Q. How long has McCormac been mayor?
23 A. Oh, geez. Good question. I think this is
24 his fourth term. I'm not absolutely positive.
25 Q. Obviously there's no term limits in

Pages 5 to 8

Page 9

1 Woodbridge.
2 When is he up for election again?
3 A. Not this November, the following November.
4 Q. So has Woodbridge always -- when did
5 you go on -- become a member of the department?
6 A. 1981.
7 Q. Okay. Did you go right from high
8 school to the department or what were you doing
9 before that?
10 A. Graduated high school, went to college,
11 graduated from William Paterson University, 1979,
12 and I was appointed as police officer in 1981. In
13 between I worked for the Woodbridge Township Board
14 of Education.
15 Q. And what rank did you achieve in the
16 department?
17 A. Captain.
18 Q. Is that the highest rank in the
19 department?
20 A. At this time it is.
21 Q. At this time?
22 A. Yes.
23 Q. How about when you were a member?
24 A. No, there a chief at the time.
25 Q. When was the chief -- office of the

Page 10

1 chief abolished?
2 A. I want to say around April -- April of 2011
3 the chief retired.
4 Q. And there was -- was there legislation
5 to change the organization?
6 A. An ordinance.
7 Q. An ordinance.
8 And were you involved in that
9 ordinance change?
10 A. No, I was not.
11 Q. Do you know who spearheaded that or
12 why that happened?
13 A. I have no clue.
14 MR. RUBENSTEIN: Objection to the
15 form spearheaded, but you can answer.
16 A. I have no clue.
17 Q. But it was under -- McCormac was mayor
18 then?
19 A. That is correct. There have been police
20 directors in the past.
21 Q. Working with the chief or working
22 without --
23 A. Normally without a chief.
24 Q. And when there were chiefs in the
25 past, would the chiefs do the operations and the

Page 11

1 directors do the rest, is that how it was -- how was
2 it divided?
3 A. Again, most of the time that there were
4 directors, there was not a chief, so the director
5 had a little more power in the police department.
6 There were some overlaps -- and I can only speak to
7 when I was appointed, there was about a month
8 overlap between myself and the chief's retirement.
9 Q. Now, is there also a public safety
10 director?
11 A. No, there is not.
12 Q. Do you have any -- as director of
13 police, do you have any other -- do you have any
14 responsibilities outside the police department?
15 A. The deputy director oversees EMS delivery for
16 the township.
17 Q. Who is that?
18 A. Joseph Nisky.
19 Q. How is fire organized?
20 A. They're their own entity. There's 11
21 districts in each one.
22 Q. How many members are in the
23 department?
24 A. We are budgeted for 225, at this -- today we
25 are at 214.

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1 Q. Do you know how many there were in
2 January 2019?
3 A. Not off the top of my head.
4 Q. Is there a training bureau?
5 A. Yes, there is.
6 Q. And who's in charge of that?
7 A. That would be Sergeant Lee Scarano --
8 actually, I'm sorry, it would be Sergeant Medina.
9 Q. What does the training bureau do?
10 A. They ensure that we are doing all the
11 necessary and required training that the attorney
12 general requires. We do our own in-house training,
13 we document -- or the training unit documents any
14 in-house training and training we send our officers
15 to.
16 Q. New -- where do you send -- how do you
17 train recruits?
18 A. They'll be hired several weeks before the
19 police academy starts. There's some required
20 in-house training prior to going to the police
21 academy. They receive that under the training unit
22 and then they go to the police academy. Normally
23 anywhere from five to seven weeks prior to we train
24 them.
25 Q. Which police academy do they get sent

Pages 9 to 12

Page 13

1 to?
2 A. Cape May, in most instances. If there's not
3 an academy available, sometimes we use Mercer, but
4 for the most part we use Cape May.
5 Q. Is Woodbridge a civil service
6 jurisdiction?
7 A. It is.
8 Q. How long has this been the way the
9 training has been be done? Have you always used the
10 Cape May Academy as your primary or --
11 A. Well, the training unit was created after I
12 became police director. There were individuals who
13 kind of handled training prior to that, but nobody
14 was dedicated. But -- if you can repeat your
15 question, I kind of lost track there.
16 Q. It would be better if I just gave you
17 a new question.
18 A. Okay.
19 Q. So when you came on -- became director
20 in 2011, you set up the training bureau, correct?
21 A. That's correct.
22 Q. At that time in 2011, were new
23 recruits already being sent to Cape May or is that
24 something you started?
25 A. No, that's something I started. The

Page 14

1 department used several different police academies.
2 Q. Had you ever had your own academy?
3 A. Yes, Middlesex County did. I don't know what
4 years they closed, but that wasn't available for
5 quite some time.
6 Q. At William Paterson, what was your
7 degree in?
8 A. Criminal justice administration.
9 Q. Is that a BS?
10 A. Yes.
11 Q. Did you take any more classes after
12 your undergrad?
13 A. I attended the FBI National Academy in 2002
14 and received 15 credits from the University of
15 Virginia.
16 Q. What did -- in 2002, you were a
17 captain then?
18 A. Yes. No, I'm sorry, I was a lieutenant in
19 2002.
20 Q. When did you become a captain?
21 A. 2007.
22 Q. What -- that course at the FBI, what
23 did that consist of?
24 A. Legal issues for command staff, forensics,
25 computer forensics, community policing. There was a

Page 15

1 physical aspect of it and -- I'm going back quite a
2 few years, trying to remember what -- I think that
3 basically covers it.
4 Q. Was facial recognition technology on
5 the horizon yet?
6 A. No.
7 Q. What do you know about facial
8 recognition technology?
9 A. Just what I read in the paper, not a whole
10 lot. I don't know the technical aspects of it.
11 Q. What papers did you read about --
12 A. Newspaper articles, especially after this --
13 after we were served.
14 Q. So was it fair to say it was something
15 you didn't know much about?
16 A. Correct.
17 Q. How is discipline handled in the
18 department?
19 A. What will happen is, if something comes to
20 our attention or we receive a complaint, it's
21 assigned to the internal affairs unit, they will
22 conduct an investigation. Once they're completed,
23 then they normally will come in, sit down with me
24 and the deputy director and our chief law
25 enforcement officer, who is Captain Kuzma, will go

Page 16

1 over the facts and how they came to find either
2 sustaining or not sustaining, whatever disposition
3 they find, and then I will decide on what the
4 discipline is with conversation with them.
5 Q. So does IA -- who is the commander of
6 IA?
7 A. Well, Captain Kuzma, our CLEO, actually
8 oversees internal affairs, but the lead is
9 Lieutenant Barrett.
10 Q. So can you spell Kuzma?
11 A. K-u-z-m-a.
12 Q. Thank you.
13 Does IA -- so IA investigates all
14 instances of alleged misconduct or only those
15 involving the public?
16 A. No, they can involve just about everything,
17 but normally if it's a demeanor complaint, the
18 division the officer works, the division commander
19 will assign a supervisor to investigate it.
20 Those -- those findings will be forwarded up to
21 internal affairs. That will be reviewed to make
22 sure it's a thorough investigation, proper, and
23 normally that would be the way it goes.
24 Q. So as a civil service jurisdiction,
25 you have minor/major discipline?

Pages 13 to 16

Page 17

1 A. That's correct.
2 Q. And who determines if it is -- what's
3 your understanding of minor discipline?
4 A. Five days or under. Well, actually five days
5 and over is a major, so I guess it would be anything
6 under five would be a minor.
7 Q. And how is minor discipline in your
8 department meted out?
9 A. Again, it could be anything from a
10 performance, notice letter of reprimand, or a
11 suspension.
12 Q. And is this sort of -- is this -- how
13 is this -- what's the mechanics of it? What's the
14 term, captain's discipline or whatever, have you
15 ever heard that term?
16 A. No, I haven't. So normally what will happen
17 is, if it's demeanor complaint, the captain will
18 come up and let me know what he's recommending and
19 I'll give my approval or won't give my approval. If
20 it's a performance notice, they will handle it right
21 there in the division, he'll write it, it will go
22 into the personnel file for six months. If it's a
23 letter of reprimand, I actually will sign that along
24 with the division commander.
25 Q. So if you get a letter of reprimand,

Page 18

1 it stays in the file for six months?
2 A. No. A performance notice stays in for six
3 months. A letter is permanent.
4 Q. What's the next one -- so performance
5 notice?
6 A. Right.
7 Q. And then the next?
8 A. Would be a letter.
9 Q. A letter of reprimand?
10 A. Correct.
11 Q. A letter of reprimand stays in the
12 file?
13 A. That's correct.
14 Q. Then above a letter of reprimand would
15 be suspension?
16 A. Correct.
17 Q. Do you -- for -- for suspension of
18 five days and under, do you use a minor disciplinary
19 form?
20 A. There's a civil service form that has to be
21 filled out, I believe it's called a 31-A.
22 Q. A 31-A or -- 31-A and 31-Bs, they
23 aren't they just for major discipline? Weren't they
24 just for major discipline?
25 A. No, I believe that they're -- now I could be

Page 19

1 wrong, so I shouldn't really say, but I thought one
2 could be any type of discipline that has any days
3 involved in it loss of pay.
4 Q. Who determines -- do you have -- is
5 there a hearing -- do you have a hearing
6 procedure --
7 A. Yes.
8 Q. -- in the department?
9 Okay. Can you describe that?
10 A. Yes. Well, any discipline can be appealed.
11 If that happens, the town normally has a hearing
12 officer who will hear the facts of the case.
13 Normally whoever is being served the discipline, has
14 five business days to appeal it.
15 Q. Minor -- are you saying minor
16 discipline then can be appealed?
17 A. Letters can actually be appealed, and we've
18 had that.
19 Q. Is that part of the collective
20 bargaining agreement?
21 A. No. We were kind of surprised by it, too.
22 We had a case several years back where we gave a
23 letter and there was an appeal and they wanted a
24 hearing and they got a hearing.
25 Q. Do you know who told you that they

Page 20

1 were entitled to a hearing?
2 A. I believe the business administrator at that
3 time.
4 Q. So for -- when major discipline is
5 given, is that -- is the hearing -- strike that.
6 Tell me how major discipline is meted
7 out.
8 A. Again, the -- we'll get together, myself the
9 IA investigator, the deputy director, and the CLEO,
10 and more times than not, the division commander will
11 sit in and have some say, and then we'll decide on
12 how the -- how many days will be involved.
13 Q. And so that's decided without a
14 hearing initially?
15 A. Right.
16 Q. Okay. And then how is that
17 communicated to the officer?
18 A. He's served with the notice, the paperwork.
19 Q. The 31-B?
20 A. I'm -- I'm guessing that is what it is,
21 because --
22 Q. So is the --
23 A. -- I don't get involved in that.
24 MR. RUBENSTEIN: Two people talking
25 at one time. You asked him a question, now let him

Pages 17 to 20

Page 21

1 answer.
2 MR. SEXTON: I apologize.
3 A. I'm not sure which one is used, but they
4 receive a form.
5 Q. Is there back and forth -- strike
6 that.
7 Typically are the officers represented
8 by counsel?
9 A. In some cases. In other cases they'll have a
10 PBA rep if they want to, you know, talk to me about
11 the discipline. Whenever they're interviewed,
12 they're entitled to a rep, and in most cases they
13 will have an attorney.
14 Q. When an officer demands a hearing, you
15 referenced a hearing officer?
16 A. Yes. We'll notify the business
17 administrator, in most cases he'll appoint a hearing
18 officer. The business administrator has acted as
19 the hearing officer in some cases, too, but not
20 recently.
21 Q. Who is currently the BA?
22 A. Vito Cimmilluca.
23 Q. Can you spell the last name?
24 A. C-i-m-a-l-u-c-a, something like that.
25 MR. RUBENSTEIN: I know it's

Page 22

1 C-i-m-m-a-l, I think it's u-c-a.
2 THE WITNESS: I missed an M.
3 Q. How long has Mr. Cimmilluca been the
4 BA?
5 A. I'm not sure of the exact date. It's got to
6 be over two years, two-and-a-half years. I'm not
7 sure of the exact date.
8 Q. Do you know who the BA was in 2019?
9 A. I'm not -- I don't recall.
10 Q. Do you record your disciplinary
11 hearings?
12 A. That would be up to the hearing officer.
13 Q. Okay. Do you know what the practice
14 is or does it vary?
15 A. Any that I've been involved there, there was
16 not a recording.
17 Q. Have you been involved in many cases
18 that were appealed to the Office of Administrative
19 Law?
20 A. One.
21 Q. In ten years just one?
22 A. Yeah -- yes.
23 Q. And do you recall what that appeal was
24 about?
25 A. Yes, it was for a dismissal.

Page 23

1 Q. Do you remember the officer's name?
2 A. Yes, Batiuk.
3 Q. Batiuk?
4 A. You're going to ask me how to spell it.
5 MR. RUBENSTEIN: I can't help you
6 with that.
7 A. B-a-t-i-u-k.
8 Q. Do you know what Officer Batiuk was --
9 do you recall what Officer Batiuk was terminated
10 for?
11 A. A number of different issues. I don't recall
12 exactly what they were, but he had also been demoted
13 from sergeant, so it was an ongoing issue.
14 Q. Do you recall what happened with OAL
15 -- what happened at OAL?
16 A. Yes, everything was upheld.
17 Q. Do you -- had there been other
18 officers terminated during your tenure as director?
19 A. No.
20 Can I ask you to clarify that? Do you mean
21 through a hearing or through an agreement? Because
22 where they're not really -- they're resigning in
23 lieu of not being terminated.
24 Q. Yeah, thanks, that's a good
25 distinction.

Page 24

1 So were there resignations that were
2 negotiated because of performance issues?
3 A. There have been.
4 Q. And can you recall approximately how
5 many?
6 A. I don't recall off the top of my head.
7 Q. Can you recall any specific officers?
8 A. I'm trying to think. Not off the top of my
9 head.
10 Q. Can you recall any of the
11 circumstances of officers who were in that
12 situation?
13 A. Normally conduct unbecoming, things of that
14 nature.
15 Q. What's the worse thing an officer has
16 done that resulted in a resignation?
17 MR. RUBENSTEIN: Objection as to
18 form. Your definition of the worst thing and his
19 definition might be two different things.
20 BY MR. SEXTON:
21 Q. In your estimation.
22 A. You're asking me to go back, you know, 10, 11
23 years. I don't really recall what could have been
24 the worst.
25 Q. Do you -- you can't recall any -- any

Pages 21 to 24

Page 25

1 of the circumstances that --
2 A. Not off the top of my head.
3 Q. Have you ever had a case -- are you
4 ever aware of any time that you've been involved in
5 a department either as a member or as a director
6 where an officer was disciplined by the department,
7 but gotten the discipline either stricken down or
8 lessened by an ALJ?
9 A. Not to my knowledge. I can't speak to when I
10 was a sworn officer, because I wasn't involved in
11 that. But under my tenure as director, not to my
12 knowledge.
13 Q. Were you active in the union when you
14 were a member?
15 A. Yes.
16 Q. Did you have any --
17 A. Trustee for the supervising officers
18 association.
19 Q. Have you had any offices in the union?
20 A. I was a trustee in the SOA, Supervising
21 Officers Association.
22 Q. Were you involved in negotiations?
23 A. Yes. I should say I was present, I didn't
24 really have much to do with it.
25 Q. Do you know how long the collective

Page 26

1 bargaining agreements, what the terms are for them?
2 Are they three-year terms, five-year terms?
3 A. I believe they were three-year terms.
4 Q. So Captain Kuzma?
5 A. Kuzma.
6 Q. He -- he oversees IA?
7 A. Correct.
8 Q. And does he also oversee other units?
9 A. Well, being the chief law enforcement
10 officer, he's the highest rank in captain, so he
11 kind of oversees all the divisions.
12 Q. So he's, what, the chief -- he does
13 what the chief had done?
14 A. Really he only does firearms, things that I'm
15 not able to do. Firearms, most of the IA I don't
16 get involved in, other than what I explained to you
17 earlier, he does those things.
18 Q. In promotions, how are promotions
19 handled in the department?
20 A. Well, being a civil service police
21 department, they are tested by the civil service, a
22 list comes out, when we have an opening, we normally
23 go right down the list as required by civil service.
24 Q. Have you ever utilized the Rule 3?
25 A. No.

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1 MR. RUBENSTEIN: And you're talking
2 about as his tenure as director?
3 MR. SEXTON: Yes.
4 MR. RUBENSTEIN: Okay.
5 BY MR. SEXTON:
6 Q. Had -- has anyone ever proposed that
7 you use the Rule 3?
8 A. Not to my knowledge. Not to my recollection.
9 Q. Have you ever promoted somebody who
10 you had misgivings about?
11 MR. RUBENSTEIN: Objection as to
12 form. You can answer.
13 A. We do an interview process. If we have any
14 concerns, we usually address it there. So most of
15 the people who are promoted in my opinion deserve to
16 be promoted.
17 Q. How long has -- had Lieutenant Barrett
18 been the -- is it commander of IA?
19 A. Supervisor. I don't know off the top of my
20 head. It's been at least three -- four years.
21 Again, I'm guessing, I don't know exactly.
22 Q. In your tenure as director, have you
23 done any -- spearheaded any reforms in the
24 department?
25 A. Yes.

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1 Q. What would those be? What are those?
2 A. Well, we civilianized a lot of positions so
3 we can get more officers on the road doing what
4 police officers should be doing. We've, you know,
5 obviously had to conform to a lot of attorney
6 general guidelines that I normally would make sure
7 were taking place in the training unit or division
8 commanders were making sure that was being done.
9 And there's been a lot of things from use of force,
10 body-worn cameras.
11 Q. When did you put cameras in?
12 A. The in-car cameras have been there quite a
13 while. The body-worn cameras are probably just less
14 than a year now.
15 Q. Why did you put the body cameras in?
16 A. Well, it was required of us, but it took us a
17 while to get the financing because it was an
18 unfunded mandate.
19 Q. Is that a mandate from the AG?
20 A. Yes, correct.
21 Q. Who do you interact with, if anyone,
22 at the office -- in the AG's office?
23 A. I don't normally. We've been kind of
24 directed that any conversation with the AG's office
25 should go through the prosecutor's office.

Pages 25 to 28

Page 29

1 Q. And who at the prosecutor's office do
2 you interact with?
3 A. Normally the prosecutor. At times their
4 assistants.
5 Q. Is Woodbridge the largest town in
6 Middlesex?
7 A. As far as?
8 Q. Population?
9 A. I believe it is.
10 Q. And is it the largest police
11 department?
12 A. Yes.
13 Q. Do you have -- in making policy
14 changes such as civilianization, do you -- how
15 involved is the mayor, is Mayor McCormac?
16 A. Not very. Obviously, you know, I'll
17 communicate to him things that are taking place, but
18 as far as his involvement, other than his knowledge,
19 he's not involved.
20 Q. Has the mayor ever contacted you
21 about -- has the mayor ever opposed any of your
22 reforms?
23 A. Not to my recollection.
24 Q. And when I say "the mayor," the mayor
25 or anybody associated with the mayor's office or his

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1 campaign or anybody like that?
2 A. No.
3 Q. What about, has any -- has the mayor
4 or anybody in his office ever contacted you
5 regarding a recruit?
6 A. I'm not sure I understand that question.
7 Q. What don't you understand about it?
8 A. About a recruit, I mean, contact me in
9 relation to a recruit.
10 Q. To suggest that somebody be -- well,
11 you have a list, right?
12 A. Yeah, we have a civil service list, so it
13 doesn't really apply.
14 Q. But you have to -- you have to go down
15 a list to get to certain people, right?
16 A. Yes.
17 Q. Have you ever -- anybody in the
18 mayor's office ever contacted you about getting to a
19 certain person on a list?
20 A. They've never asked that we specifically get
21 to somebody, they've inquired where somebody was on
22 the list, if we knew.
23 Q. How many times has that happened?
24 A. Not very often. I couldn't give you a
25 number.

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1 Q. How about for -- that's a hiring list.
2 How about a promotional list?
3 A. That's also civil service list that, you
4 know, we go right down the list so --
5 Q. Right. So the question is: Has the
6 mayor -- anybody from the mayor's office ever made
7 an inquiry to you about where somebody was on a
8 promotional list?
9 A. Yes.
10 Q. Who -- is it the mayor himself who
11 inquires or one of his aides?
12 A. No, the mayor has asked, some of his aides
13 have asked.
14 Q. Has the mayor or anybody in his office
15 ever inquired about any pending discipline?
16 A. No, not to my -- normally we'll let him know
17 if there's something that he needs to know about,
18 and, you know, once there's a disposition, I'll let
19 him know what it was. But other than that, they
20 don't usually get involved in that.
21 Q. Have you done anything with community
22 -- I think you mentioned community policing?
23 A. Correct.
24 Q. What were the community policing
25 initiatives?

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1 A. What is it in the Woodbridge's?
2 Q. Yes.
3 A. Obviously interact with the community, get
4 involved with our religious organizations, the
5 schools, try to attend as many events as possible to
6 represent the police department. We hold a number
7 of programs, from the junior police academy to the
8 senior police academy. We play basketball and
9 hockey against high school students.
10 Q. Is there a police athletic league or
11 anything like that?
12 A. No. But there is a PBA street hockey league
13 that involves kids of all ages up to high school.
14 Q. Was there -- the incident that's the
15 base of this lawsuit involving Nijeer Parks, was
16 there any discussion about bringing discipline as a
17 result of the actions of the members of your
18 department?
19 A. Once we received the letter of claim, I asked
20 to initiate an IA investigation to make sure there
21 wasn't any misconduct or policy violations.
22 Q. And who took that referral, Kuzma or
23 Barrett?
24 A. I don't remember if it was Kuzma or Barrett.
25 It may have been both at the same time.

Pages 29 to 32

Page 33

1 Q. And did you get a response from IA?
2 A. Upon the completion of their investigation?
3 Q. Yes.
4 A. Yes.
5 Q. And what did they say?
6 A. They found no misconduct and at the time
7 there were no policy violations as it stood during
8 that investigation.
9 Q. Did you personally review the facts of
10 the case?
11 A. No. I had a conversation with the IA
12 investigators.
13 Q. Do you remember which investigators
14 you talked to?
15 A. I believe it was Lieutenant Velez, Lieutenant
16 Barrett, and Captain Kuzma.
17 Q. Do you recall the content of those
18 discussions with Velez, Barrett, and Kuzma?
19 A. No. Just an overall knowledge that there was
20 no misconduct and, again, no policy violations.
21 Q. Have you ever read any of the
22 documents in the case?
23 A. No.
24 Q. Is there -- there's a detective bureau
25 in the department, right?

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1 A. Correct.
2 Q. Is there also like a -- well, describe
3 investigations in the department if you could.
4 Who -- how -- who oversees investigations?
5 A. The criminal investigation division is -- the
6 commander and captain is Captain Neste.
7 Q. N-e-s-t-i?
8 A. E.
9 Q. Okay. And the criminal investigation
10 division, does it have -- does it have units within
11 it?
12 A. It does.
13 Q. What are those?
14 A. The juvenile aid bureau and the
15 identification unit, digital crimes unit.
16 Q. Is the detective bureau within that?
17 A. Well, the detective bureau is the entire
18 division. They're subdivisions of the detective
19 bureau.
20 Q. So is Captain Neste the commander of
21 the detective bureau?
22 A. That is correct. It's also called the
23 criminal investigations division, but they're --
24 it's synonymous.
25 Q. Is there -- do you have like a special

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1 investigations unit or is that --
2 A. Yes. When you say "special investigations
3 unit," there is one named special investigations,
4 they are tasked with narcotics enforcement,
5 organized crime, and vice control. But they are not
6 under the criminal investigation division.
7 Q. They're not?
8 A. They are not.
9 Q. So they're kind of freestanding?
10 A. It's actually part of the criminal
11 investigation -- or I'm sorry, special
12 investigations division.
13 Q. Okay. So there's something called
14 special investigations division?
15 A. Correct.
16 Q. Which is separate from the detective
17 bureau, the criminal investigation division?
18 A. Right.
19 Q. And the special investigation
20 division has --
21 A. I should say units, not really division. It
22 comes under the office of the police director, but
23 it's led by a captain.
24 Q. And are there subparts to the special
25 investigations unit?

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1 A. Yes, training, the special operations team.
2 That's pretty much it.
3 Q. How about the -- the digital --
4 A. Digital crimes is up in the criminal
5 detective bureau.
6 Q. Who's -- and who's in charge of the
7 special investigation unit?
8 A. Captain Murphy.
9 Q. Do you have like a printed, what's it
10 called? Table organization?
11 A. We do.
12 MR. SEXTON: Fred, if I can just --
13 MR. RUBENSTEIN: I'll get it for you.
14 THE WITNESS: I can get that this
15 afternoon, just remind me.
16 MR. RUBENSTEIN: Sure.
17 BY MR. SEXTON:
18 Q. When Captain Kuzma and Lieutenant
19 Barrett and Velez reviewed the allegations in this
20 matter, did they confer with anybody in the AG's
21 office?
22 A. I don't know.
23 Q. Do you know if they conferred with
24 anybody in the prosecutor's office?
25 A. I don't know.

Pages 33 to 36

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1 Q. Did anyone -- when this notice of
2 claim came in -- did anybody from the mayor's office
3 communicate with you?
4 A. Yes.
5 Q. And who from the mayor's office?
6 A. I believe both the business administrator and
7 the mayor.
8 Q. And was this by phone or in person?
9 A. I believe it was in person.
10 Q. And were you altogether or were these
11 separate?
12 A. No, I believe we were altogether.
13 Q. Was the BA at the time, was that --
14 A. I believe it was Vito Cimmilluca.
15 Q. Was anyone else in the meeting besides
16 you, McCormac --
17 A. I don't recall.
18 Q. -- and Cimmilluca?
19 Where was the meeting?
20 A. It really wasn't a meeting. It was -- in
21 fact, if I remember correctly, we were served with a
22 notice, I received a copy and I believe the mayor's
23 office did, they called me up to ask about it, you
24 know, if I knew, and I said I got the same paperwork
25 as them, and that was really the extent of the

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1 conversation, just are we all aware of the letter of
2 claim.
3 Q. Were you aware of the lawsuit by the
4 ACLU against Clearview Technology?
5 A. No.
6 Q. You have never heard of that
7 litigation?
8 A. Until afterwards.
9 Q. When did you learn about the
10 litigation?
11 A. Probably just recently.
12 Q. And how did you come to learn about
13 it?
14 A. Probably a newspaper article or, you know,
15 something on the internet.
16 Q. What have you come to learn?
17 A. That they were suing Clearview, and quite
18 honestly, ACLU was I think asking that facial
19 recognition be abolished as a tool for law
20 enforcement.
21 Q. And the source of your understanding
22 is either the internet or a newspaper?
23 A. Correct.
24 Q. And what newspapers would that have
25 been in?

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1 A. Probably, again, nj.com, which I believe is
2 the Star Ledger.
3 Q. Have you discussed -- a couple times
4 in your testimony today you've said that at the time
5 of the incident here there was no policy that was
6 violated. Has the department formulated any policy
7 regarding facial recognition technology after
8 January 2019?
9 A. Other than not being able to use Clearview,
10 which we never did, at the AG's directive, everyone
11 was told that you cannot use it. And as I stated
12 before, we never did. And to use the ROIC, if at
13 all. There is no written policy, because the AG
14 hasn't even created a policy, so we're not going to
15 create something that may once he decides -- he or
16 she decides what the policy is, we don't want to be
17 outside of those recommendations or directives.
18 Q. By the ROIC, you mean the -- what is
19 it, the ROIC?
20 A. Yeah, Regional Operational Intelligence
21 Center.
22 Q. What is that?
23 A. It's a location, I think there's two in the
24 state, where the state police run it and collect
25 criminal data and aid in investigations. Pretty

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1 much an intelligence center.
2 Q. What sort of things do you use it for,
3 you being the department?
4 A. The department uses it for a host of --
5 there's an ongoing issue with vehicle thefts,
6 catalytic converter thefts, things of that nature.
7 We'll report to them any suspicious activity reports
8 that may involve any kind of either foreign or
9 domestic terrorism, we need to report those things
10 to the ROIC.
11 Q. And that's -- is this just New Jersey
12 and New York that are in the ROIC?
13 A. I don't know exactly, but I think there's
14 representatives of the FBI, probably DEA.
15 Q. DEA?
16 A. DEA, the Drug Enforcement Administration.
17 Q. Thank you. Were you ever a detective?
18 A. Yes, I was.
19 Q. How many years were you a detective?
20 A. I was put into the special investigations
21 unit in 1987. 1988 I was probably given the title
22 of detective.
23 Q. I'm sorry, what year was that?
24 A. I believe -- I was placed in special
25 investigations in 1987, 1988 I believe I received my

Pages 37 to 40

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1 detective's badge.
2 Q. Do you recall any civil rights claims
3 ever being brought against the county other than the
4 instant matter?
5 A. I have no clue.
6 Q. I mean, the department. You don't
7 recall any?
8 MR. RUBENSTEIN: Hold on, Fred, is
9 your question the county because --
10 MR. SEXTON: No, I corrected it. The
11 department obviously.
12 MR. RUBENSTEIN: It's not obviously,
13 you have to ask your questions and make it clear.
14 MR. SEXTON: I did make it clear.
15 A. Am I aware of any civil rights claims against
16 Woodbridge Police Department?
17 Q. Yes.
18 A. I know there have been.
19 Q. Can you recall any?
20 A. I know there is one pending right now, the
21 Brady matter.
22 Q. What does that entail?
23 A. It was a superior Court judge who was
24 charged.
25 Q. That's a federal court one?

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1 A. Yes.
2 Q. Where is that now, do you know?
3 A. That is still all pending.
4 Q. Do you recall any other matter?
5 A. Off the top of my head, no. I'm sure there
6 probably were, but I don't recall.
7 MR. SEXTON: Let's mark this as --
8 how do we want to mark these?
9 (Whereupon, document, was received and
10 marked as Exhibit No. H-1 for identification.)
11 BY MR. SEXTON:
12 Q. I am showing you a document marked as
13 H-1 for identification purposes. I would just like
14 to ask you about the complaints. It's a letter from
15 your -- the lawyer for the department to me, and he
16 lists a number of complaints.
17 A. Okay.
18 Q. Shaquita Ayler, do you know what that
19 matter is about?
20 A. No, I don't.
21 Q. Melanie Navaro, do you know what that
22 matter is about?
23 A. No, I don't.
24 Q. Travis Wint?
25 A. I do not.

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1 Q. Sheryl Hearn's?
2 A. Do not.
3 Q. Anthony Testa?
4 A. Do not.
5 Q. Okay. Thank you.
6 Is there any -- who is the lawyer for
7 Woodbridge?
8 A. The township attorney?
9 Q. Yes.
10 A. James Nolan.
11 MR. RUBENSTEIN: Make sure that was
12 the question, because there's a bunch of lawyers.
13 BY MR. SEXTON:
14 Q. And is that -- do you know if that's a
15 part-time or full-time job?
16 A. I don't know.
17 Q. And does he have -- is there -- are
18 there attorneys on staff or is everything handled by
19 outside lawyers or by this firm, Nolan & Associates?
20 A. I am not sure.
21 Q. Do you know of any other -- does
22 Mr. Nolan have an office at the city hall?
23 A. There is an office, yes.
24 Q. And have you been to his office?
25 A. Yes.

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1 Q. And are there other lawyers besides
2 Mr. Nolan in that office?
3 A. Yes.
4 Q. And who are those?
5 A. To my knowledge, Fred Rubenstein, Garry, who
6 is seated here, Brian.
7 Q. What's Brian's last name?
8 A. Brian Bontempo.
9 Q. Is he -- are all of these lawyers also
10 part of this law firm where we are today?
11 A. To my knowledge they are.
12 Q. Is there anybody in the office of
13 Mr. Nolan, the township attorney at Woodbridge, who
14 is not in this law firm?
15 A. Not to my knowledge.
16 Q. Do you know how long Mr. Nolan has the
17 township attorney?
18 A. I don't.
19 Q. Do you recall his predecessor?
20 A. I don't.
21 Q. So it's fair to say the township
22 attorney has been Mr. Nolan for as long as you can
23 recall?
24 A. That is correct.
25 Q. Do you know the case Hodges v

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1 Rastegarpanah?
2 A. I'm aware of it.
3 Q. What -- what are you -- what do you
4 know about that case?
5 A. I know Mr. Hodges -- I don't remember the
6 fact pattern of the case, but he brought suit
7 against the police department and some officers.
8 Q. Do you remember that he alleged
9 excessive force?
10 A. Yeah, I believe so.
11 Q. And do you know what the status --
12 what happened in that matter or --
13 A. I believe I just learned last week that the
14 case was settled.
15 Q. Do you know how much it was settled
16 for?
17 A. I don't remember off the top of my head. I
18 don't want to guess at the number.
19 Q. Were you involved in the defense of
20 the case?
21 A. No.
22 Q. Were you -- were you consulted about
23 settling that matter?
24 A. No.
25 Q. When you heard that the matter was

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1 settled, did you have any reaction?
2 A. Not to my recollection.
3 Q. Do you think it's appropriate for the
4 police director to be involved in settlement of
5 matters?
6 A. I would think in some instances, but a lot of
7 that takes place above my level.
8 Q. Do you remember a case called Gutierrez
9 v Woodbridge?
10 A. I do.
11 Q. What do you remember about that case?
12 A. If I have it correctly, that was an
13 individual at Fridays -- TGI Fridays who alleged
14 excessive force.
15 Q. And were you involved in the defense
16 of that case?
17 A. I was not.
18 Q. Were you involved in the settlement of
19 that case?
20 A. No, I was not.
21 Q. Are you aware for how much the matter
22 was settled?
23 A. I don't --
24 MR. RUBENSTEIN: Okay. That
25 settlement has a confidentiality agreement. We're

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1 not allowed to disclose unless you get a court
2 order, so.
3 BY MR. SEXTON:
4 Q. Did you know it was reported in the
5 newspaper that it was settled for 125,000?
6 A. No, I didn't know that.
7 MR. SEXTON: Can you mark this as
8 H-2.
9 (Whereupon, newbrunswicktoday.com.,
10 Another Lawsuit Against Woodbridge Police Cost
11 Taxpayers 125K article, was received and marked as
12 Exhibit No. H-2 for identification.)
13 BY MR. SEXTON:
14 Q. I'll show you a document marked for
15 identification purposes as H-2. It's an article
16 from newbrunswicktoday.com. This article indicates
17 that the Hodges --
18 MR. RUBENSTEIN: No, not Hodges,
19 Gutierrez.
20 BY MR. SEXTON:
21 Q. Gutierrez was settled for 125,000.
22 Does that refresh your recollection about what the
23 dollar figure was?
24 A. No, I never knew.
25 Q. You had no idea?

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1 A. No.
2 Q. And nobody asked you about it?
3 A. That is correct.
4 Q. The article also references a recent
5 settlement of \$70,000 to three Elizabeth residents
6 who claimed they were falsely charged on charges
7 that were later dismissed. Do you -- do you know
8 what case that \$70,000 would have been related to?
9 A. I do not.
10 Q. Do you remember a case that was down
11 at the mall involving alleged excessive force by a
12 woman complainant, the mall being Jersey Gardens?
13 MR. RUBENSTEIN: I don't think that's
14 the mall, so I don't want to confuse the witness. I
15 don't want you to confuse the witness. There's no
16 Jersey mall here by that name.
17 MR. SEXTON: Jersey Gardens?
18 MR. RUBENSTEIN: There is no mall by
19 that name here.
20 MR. SEXTON: That might be -- excuse
21 me.
22 BY MR. SEXTON:
23 Q. With these settlements, is there a --
24 do you know anything about the procedure for how
25 these settlements are approved?

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1 A. No, I don't.
2 Q. Do you know anything about the
3 insurance, the Joint Insurance Commission?
4 A. Very little, but I know it exists.
5 Q. Have you ever spoken to anybody at the
6 Joint Insurance Commission about any matter?
7 A. No.
8 Q. Do you know if anybody from your
9 department on your behalf has spoken to the Joint
10 Insurance Commission about anything?
11 A. When you say "behalf," if you're talking
12 maybe an attorney, possibly, but I don't have any
13 direct knowledge of that.
14 Q. Does the Joint Insurance Commission
15 ever get involved in helping limit exposure of the
16 department by -- in any way?
17 A. I don't know.
18 Q. Have they ever, like, weighed in on
19 policies, procedures, and things to try to make sure
20 the department was current, for instance?
21 A. No, we are CALEA certified nationally, that's
22 how we develop our policies and procedures.
23 Q. What's that, CALEA?
24 A. CALEA, it's Commission on Accreditation for
25 Law Enforcement Agencies.

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1 procedures out to them. And I believe now it's
2 every two years, but it's an ongoing process where
3 we have to send certain proofs to them on an ongoing
4 basis to make sure we're staying up to date on our
5 policies and procedures.
6 Q. Do they write the policies and
7 procedures?
8 A. No. We normally write them. They'll review
9 them to make sure we meet all of their standards.
10 They'll make recommendations if they feel we can be
11 doing something better. We'll research it, if it
12 makes sense, we'll adopt that.
13 Q. How long have you had this
14 relationship with CALEA?
15 A. I think we were first accredited in 1998, so
16 it's been a long ongoing relationship that we intend
17 on keeping.
18 Q. Do you know if they -- do they work
19 with other departments in New Jersey?
20 A. Yeah, I believe there are several in New
21 Jersey. I think we're the second longest department
22 in New Jersey to be nationally certified, but more
23 and more departments are being members of CALEA.
24 Q. Do you know what other New Jersey
25 departments are in?

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1 Q. C-O-A-L-A?
2 A. No, it's actually C-A-L.
3 Q. Commission on -- oh, Commission on
4 Accreditation --
5 A. For Law Enforcement Agencies. And they call
6 it. CALEA.
7 Q. And -- so what does CAL --
8 A. It's a national organization who come in
9 every so often, go over all your policies and
10 procedures to make sure you have best practices and
11 you have to meet standards. They review hundreds of
12 our policies and procedures, and you're awarded
13 certification after their review if you're in
14 compliance with their regulations.
15 Q. Is there any person at CALEA whom you
16 regularly interface with and deal with?
17 A. We have accreditation manager, who is a
18 civilian, Drew Tuttle, he does most of the -- but
19 I'm interviewed when there is an on site along with
20 the command staff.
21 Q. And do you know how often they come on
22 site?
23 A. It was every three years. A little change in
24 that when Covid struck, we did it by Zoom, the
25 on-site interviews, but we had to send policies and

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1 A. I know the New Jersey State Police. I don't
2 want to guess. I don't want to name other
3 departments because I'm not sure exactly, but there
4 are a number.
5 Q. Do you know what the term progressive
6 discipline means?
7 A. Yes.
8 Q. What's your understanding?
9 A. That discipline becomes progressive depending
10 on the situation where it rises in severity.
11 Q. Have you ever visited the ROIC?
12 A. I've been there only for a tour, not for any
13 type of investigative purpose.
14 Q. What's a 500 report?
15 A. I have no idea.
16 (Whereupon, a discussion was held off
17 the record.)
18 MR. SEXTON: Could you mark this as
19 H-3.
20 (Whereupon, Woodbridge Police Department
21 Internal Affairs Bureau, 2014 Internal Affairs
22 Investigation 500 Index Sheet, was received and
23 marked as Exhibit No. H-3 for identification.)
24 BY MR. SEXTON:
25 Q. I'll show you a document marked as

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1 H-3. It is multi-page, one, two, three, four, five,
2 it's five sheets. And it's Woodbridge Police
3 Department Internal Affairs Bureau 500 index sheet.
4 A. Okay.
5 Q. Does that refresh your recollection
6 what a 500 report is?
7 A. Well, I know -- obviously it's something that
8 internal affairs use. But what 500 stands for, I
9 don't know. But this obviously is an officer's
10 discipline sheet. I have seen these, but didn't
11 know they were called 500 reports.
12 Q. Have you -- when have you seen these?
13 A. Normally when internal affairs comes to me,
14 if there's a sustained complaint when we're deciding
15 upon discipline, we want to see their past
16 discipline, and that's when I would see this so I
17 have knowledge of what their past history has been.
18 Q. Do you regularly get a printout like
19 this for each year?
20 A. I don't. I believe it is published, but I'm
21 not handed a -- and the published wouldn't have the
22 officers' names, I don't believe.
23 Q. Are you aware of the reporting
24 requirements that were recently made by the AG
25 concerning misconduct -- police misconduct and the

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1 identification -- and the required identification of
2 the officer?
3 A. I am aware that there have been new standards
4 put in place and directives, but, again, I don't get
5 involved in that. That's something internal affairs
6 does and they would do the listing. And now that
7 you mention about naming the officer, in the past it
8 hadn't been or they hadn't been named.
9 MR. SEXTON: Can you mark this as
10 H-4.
11 (Whereupon, document for Andrew Lyszyk,
12 was received and marked as Exhibit No. 4 for
13 identification.)
14 BY MR. SEXTON:
15 Q. So I'll show you what's been marked as
16 H-4.
17 MS. LEMPKA: Dan, can I just ask, is
18 there a Parks number on that?
19 MR. SEXTON: Yes, Parks 300.
20 MS. LEMPKA: Thank you.
21 MR. SEXTON: You're welcome. And
22 then I think they follow, yeah, Parks 300 through
23 303.
24 BY MR. SEXTON:
25 Q. What's the -- do you recognize the

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1 first page of this?
2 A. It appears to be Andrew Lyszyk's past
3 discipline.
4 Q. And when you said you would be shown
5 reports, is this the -- is the form of the report
6 you would be shown about an officer?
7 A. I believe it is, yes.
8 Q. Now this -- this shows that Officer
9 Lyszyk had three sustained complaints, right?
10 A. Right.
11 Q. Doesn't -- the reports don't list
12 unsustained complaints, is that correct, or do they?
13 MR. RUBENSTEIN: Objection as to
14 form. I think your --
15 MR. SEXTON: I'll rephrase it.
16 BY MR. SEXTON:
17 Q. Do you know if there had been
18 complaints that were not sustained whether they
19 would be noted on this page?
20 A. I have seen printouts with everything,
21 whether it's sustained, not sustained, exonerated.
22 Q. Did you know what -- are there
23 different -- can you have the program spit out
24 different types of reports or does it always spit
25 out the report in a certain way?

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1 A. I don't know.
2 Q. In this case it shows three sustained
3 instances of misconduct, correct?
4 A. That's correct.
5 Q. Then it says -- for discipline, it
6 says, "performance notice"?
7 A. Correct.
8 Q. And that was in '09, right?
9 A. Yes.
10 Q. And that's the thing that gets put in
11 and then gets taken out after six months?
12 A. That's correct.
13 Q. And does that require six months of
14 good conduct or is it taken out no matter what?
15 A. Well, after good conduct. I would imagine if
16 there was something less than good conduct, there
17 would be different discipline, so I would imagine
18 that would be removed.
19 Q. So it gets removed regardless?
20 A. I believe so.
21 Q. And then a letter of reprimand, is
22 that -- that's one up from --
23 A. Correct.
24 Q. -- a performance notice?
25 Now counseling?

Pages 53 to 56

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1 A. Yes, sir.
2 Q. Is counseling discipline?
3 A. No, it's not really discipline.
4 Q. In this case it would appear that the
5 discipline is not progressive, it does not get more
6 serious as the misconduct occurs; is that fair to
7 say?
8 A. Well, as I said, before when you asked me if
9 I knew what progressive discipline was, I said
10 depending on the circumstances it could rise. But
11 there are situations where somebody may have done
12 something that wasn't in conformance of a policy,
13 but doesn't rise to the level of a letter and you
14 could receive counseling or a PN, performance
15 notice.
16 So it doesn't necessarily have to go from a
17 PN to a letter to days off. It's depending on the
18 circumstances.
19 Q. Thank you.
20 MR. SEXTON: Mark this as H-5.
21 (Whereupon, Woodbridge Police Department
22 Internal Affairs Bureau 2019 Internal Affairs
23 Investigation Index Sheet, was received and marked
24 as Exhibit No. 5 for identification.)
25

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1 Q. Do you know are these terms used
2 universally in law enforcement by IA in law
3 enforcement agencies or is this a use only of
4 Woodbridge?
5 A. No, I believe New Jersey is required to use
6 these through the AG guidelines and internal affairs
7 investigations.
8 Q. Do you know how long this terminology
9 has been used?
10 A. No.
11 Q. Thanks.
12 MR. SEXTON: Mark this as H-6,
13 please.
14 (Whereupon, Complaint Warrant, was
15 received and marked as Exhibit No. H-6 for
16 identification.)
17 BY MR. SEXTON:
18 Q. I'll show you a document we've marked
19 as H-6. It's Parks 1 through 23.
20 A. Okay.
21 Q. You said you never looked at any --
22 any documents relating to this case?
23 A. Not to my knowledge. I don't recall --
24 Q. So --
25 A. -- purposely looking at anything.

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1 BY MR. SEXTON:
2 Q. I'll show you what's been marked as
3 H-5. Do you recognize this?
4 MR. SEXTON: For the record, it's
5 Parks 304 through 311.
6 A. I haven't seen it printed this way. As I
7 stated earlier, normally when we're going to dole
8 out any type of discipline, I will get a
9 chronological order and it may say "exonerated," it
10 may say "sustained." It has the whole list. I've
11 never seen it broken down like this before.
12 Q. Do you know -- so this -- these
13 dispositions are either exonerated, unfounded, or
14 not sustained. Is there -- are those terms
15 synonymous or are they different?
16 A. They're different.
17 Q. And what does exonerated mean?
18 A. The action took place and it was found to be
19 within policy.
20 Q. And what is not sustained?
21 A. Not enough information was gathered during
22 the investigation to sustain it.
23 Q. What does unfounded mean?
24 A. Didn't happen. The accusation didn't happen
25 from what was found during the investigation.

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1 Q. Do you recognize what this exhibit is?
2 A. It's obvious by the title of it, it's a
3 complaint warrant. They're a little bit different
4 than how I used them back in 2010 and previously,
5 but it's obvious that's what it is.
6 MR. RUBENSTEIN: Just for the record,
7 there's two complaint warrants, they're two separate
8 documents, but you lumped them together as one.
9 There's complaint 000156, which is Bates stamped
10 Parks -- Parks 1 through Parks 10, and then it's
11 000158, that's Parks 11 through 22. So that there's
12 no confusion, it's two separate complaints.
13 BY MR. SEXTON:
14 Q. Can you look at page Parks 21?
15 A. Okay.
16 Q. This is an affidavit of probable cause
17 completed by Patrolman Lyszyk, correct?
18 A. I don't know who it was completed by, because
19 there's nothing on here --
20 MR. RUBENSTEIN: Next page.
21 A. Okay. I see it typed, yeah, Lyszyk.
22 Q. Do you see the first sentence, "While
23 investigating a shoplifting of \$39 worth of
24 merchandise from Hampton Inn, the hotel manager,
25 Richard Charneco, C-h-a-r-n-e-c-o, advised us that

Pages 57 to 60

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1 Parks was the suspect." Do you see that?
 2 A. I do see it.
 3 Q. Do you know that in Lyszyk's
 4 deposition he conceded that that was a false
 5 statement?
 6 MR. RUBENSTEIN: Objection to form.
 7 You can answer if you know.
 8 A. I don't know.
 9 Q. Okay. So nobody contacted you after
 10 his deposition to advise you that he testified under
 11 oath that he had made a false statement in an
 12 affidavit of probable cause?
 13 MR. RUBENSTEIN: The only caveat to
 14 that is, any conversations you might have had with
 15 your attorney, but other than that you can
 16 certainly, you know, answer his question.
 17 A. I wasn't contacted by anyone, no.
 18 Q. Sitting here as the police director
 19 and -- well, as you read that sentence, do you
 20 understand why that's false -- why it has to be
 21 false?
 22 A. Well, I had nothing to do with the
 23 investigation and don't know the facts of the
 24 investigation, so it's obvious that Mr. Parks wasn't
 25 the suspect, so I see it's false.

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1 Q. And as you also know from various
 2 sources that the name Parks came up because of a
 3 wrongful hit on a facial recognition technology?
 4 MR. RUBENSTEIN: Objection as to the
 5 form. You can answer.
 6 A. Yes, I do know that.
 7 Q. So that the hotel manager at the time
 8 could not have identified it as Parks?
 9 A. That makes sense.
 10 (Whereupon, Facial Recognition
 11 Initiative Request For Facial Recognition/Photo
 12 Array, was received and marked as Exhibit No. H-7
 13 for identification.)
 14 BY MR. SEXTON:
 15 Q. I'm showing you a document, a
 16 three-page document marked as H-7. It's marked
 17 request for facial recognition/photo array.
 18 A. Yes, sir.
 19 Q. Have you ever seen this form before?
 20 A. No.
 21 Q. Okay. Do you recognize the insignia
 22 as a ROIC insignia?
 23 A. I haven't seen that insignia, but I would
 24 imagine it probably is.
 25 Q. The first paragraph, it reads as

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1 follows: "If the NJ ROIC facial recognition
 2 initiative produces a possible match, this should
 3 only be considered an investigative lead. Further
 4 investigation is needed to confirm a possible match
 5 through other investigative corroborated information
 6 and/or evidence." Then it all caps it says,
 7 "Investigative lead, not probable cause to make an
 8 arrest."
 9 Do you understand what that is saying
 10 at the top of this form that the ROIC uses?
 11 A. I do.
 12 Q. And what is your understanding?
 13 A. That you can't use just a facial recognition
 14 positive hit to make an arrest.
 15 Q. Investigative leads is a pretty broad
 16 category, would you agree?
 17 A. Yes.
 18 Q. It could be anything from a tea leaf
 19 to a hunch, almost anything, right?
 20 A. Well, I hope it's more than a hunch, but it's
 21 a wide range.
 22 Q. Like what was the -- Monk, right,
 23 investigators might have very unorthodox ways of
 24 going about the very sort of off the margins
 25 investigation.

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1 MR. RUBENSTEIN: Is there a question?
 2 BY MR. SEXTON:
 3 Q. Correct?
 4 MR. RUBENSTEIN: Objection as to
 5 form. If you understand it, you can answer.
 6 A. I don't really understand it.
 7 Q. There's certain evidence that can be
 8 used to present to a court to support the legal
 9 process, right?
 10 A. Yes.
 11 Q. And then there's other stuff that
 12 can't go into court for a variety of reasons, right?
 13 A. I believe so.
 14 Q. Can you think of any -- things that
 15 aren't allowed to be -- other things other than
 16 facial recognition?
 17 A. I would imagine hearsay evidence, things of
 18 that nature.
 19 MR. RUBENSTEIN: I'm just going to
 20 object that this calls for a legal conclusion, but
 21 you can answer.
 22 BY MR. SEXTON:
 23 Q. What about like lie detector tests?
 24 A. Unless the counsel for the person agrees,
 25 then, no, it can't be used.

Pages 61 to 64

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1 Q. So in this case, are you aware of any
2 other evidence other than the facial recognition
3 technology that led to the complaints that were
4 sworn out against Nijeer Parks?
5 MR. RUBENSTEIN: Objection as to form
6 again. He's indicated he wasn't a part of the
7 investigation and it wasn't involved in the
8 underlying matter, but if you can answer, you can
9 answer.
10 A. I believe there might have been an
11 identification.
12 Q. What do you -- what is your
13 understanding of the identification that there might
14 have been?
15 A. That either one or both of the officers that
16 were involved prior to Mr. Parks being placed under
17 arrest, may have identified him as the person that
18 was on scene that day that they confronted.
19 Q. And what are you basing that
20 understanding on?
21 A. Just things that I have heard.
22 Q. Where did you -- whom did you hear
23 them from or how did you hear them?
24 A. I think that may have been with
25 discussion with --

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1 Q. You can't tell me about counsel.
2 MR. RUBENSTEIN: If you heard it from
3 anyone other than anyone from this office or any of
4 the attorneys, you can talk about it. Other than
5 that, you can't.
6 A. I believe when I was -- Captain Neste or
7 somebody from the detective bureau said there was an
8 identification.
9 Q. Okay. Now, there are rules about how
10 identification is done, correct?
11 A. Correct.
12 Q. What do you recall about -- what can
13 you tell us about those rules?
14 A. Well, since I have been out of the
15 investigative field for 11 years, I'm sure they've
16 changed, but, you know, you could do show-up lineups
17 within a certain amount of time or you could do a
18 photo array.
19 Q. And there are certain rules for how to
20 do show-ups, a show-up has to be done within such a --
21 recently after the event, for instance?
22 A. Yeah, but I believe there's a caveat to that,
23 that, you know, with civilian witnesses, when an
24 officer has direct contact with somebody, there's a
25 little more weight to their identification.

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1 Q. And what do you base that on?
2 A. Just past knowledge.
3 Q. Now, the CALEA --
4 A. CALEA.
5 Q. -- CALEA process, that would review
6 your use of show-ups and lineups, would it not?
7 A. Yeah, they would touch on that.
8 Q. Are you aware of the exonerating
9 evidence in this case --
10 MR. RUBENSTEIN: Objection as to
11 form.
12 Q. -- that was overlooked by your
13 department?
14 MR. RUBENSTEIN: Objection as to
15 form. You can answer.
16 A. I'm not sure. Can you repeat it?
17 Q. Sure. Are you aware of the
18 exonerating evidence that was -- in this case from
19 the start that your department ignored?
20 MR. RUBENSTEIN: Objection.
21 A. No, I'm not aware.
22 Q. Okay. Are you aware that the suspect
23 was described as being over 6 feet tall?
24 MR. RUBENSTEIN: Objection to the
25 form. I don't think that's what it says, but if you

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1 know, you know.
2 A. I'm not aware.
3 Q. Okay. Were you aware that a sneaker
4 was recovered at the scene that was a size 12,
5 whereas the plaintiff has a size 7?
6 MR. RUBENSTEIN: Objection as to
7 form.
8 BY MR. SEXTON:
9 Q. Were you aware of that?
10 MR. RUBENSTEIN: You can answer.
11 THE WITNESS: I can answer?
12 MR. RUBENSTEIN: I'm sorry.
13 THE WITNESS: When you object, I'm
14 not going to answer until somebody says go ahead.
15 BY MR. SEXTON:
16 Q. Unless he tells you not to answer,
17 he's just creating a record.
18 A. No, I am not aware.
19 (Whereupon, photocopy of photographs,
20 was received and marked as Exhibit No. H-8 for
21 identification.)
22 BY MR. SEXTON:
23 Q. This is Parks 162 previously entered
24 in the other depositions, we will mark it as H-8.
25 This is the OJ moment. Not a glove,

Pages 65 to 68

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1 but a shoe.
2 So I'll present to you that this is a
3 picture from your department taken of -- marked as
4 H-8, of a sneaker that fell off the perpetrator at
5 the Hampton Inn, and it indicates, it's next to a
6 ruler, that a size 12 or 12 and a half. The
7 plaintiff in this matter is 5'7" and has a size nine
8 shoe.
9 Would you agree that it was an
10 oversight not to have tested this against Mr. Parks
11 when he came down to your office to clear this
12 matter up?
13 MR. RUBENSTEIN: Objection as to
14 form. You can answer.
15 A. Well, if things remained the same way as when
16 I was a detective, things are packaged up for
17 evidence, you don't open them once they're sealed.
18 So I don't know what the circumstances were, so it's
19 hard to answer that.
20 Q. Well, so even if -- but you would
21 agree if they couldn't take it out of the plastic
22 bag because it had been preserved in the plastic
23 bag, they had this picture that showed it was a size
24 12 or 12 and a half, correct?
25 A. Well, people do wear oversized clothing and,

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1 MR. RUBENSTEIN: No. Once we start.
2 THE WITNESS: All right.
3 MR. RUBENSTEIN: I am here for
4 support.
5 THE WITNESS: Okay.
6 MR. SEXTON: I am going to mark as
7 H-9, it's Parks 100 through 105.
8 (Whereupon, CJIS 2000 Response, was
9 received and marked as Exhibit No. 9 for
10 identification.)
11 BY MR. SEXTON:
12 Q. So I believe the date is February 14?
13 A. Of 2019.
14 Q. Yeah. I think -- if I am recalling
15 the dates correctly, the incident occurred on the
16 26th of January and Mr. Parks came down to your
17 offices on I think it was February -- let me see.
18 The first week of February. And the warrants were
19 sworn out on January 30.
20 So two weeks after the warrants were
21 sworn out, this what's represented as H-9 is that
22 the fingerprints at the scene belong to Barrington
23 Walker?
24 A. Okay.
25 Q. This is evidence that is reliable in

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1 you know, it looks like from -- this is very hard to
2 see, because it's not a very clear picture, but it
3 looks like the shoe is not tied. It's kind of wide
4 open.
5 Q. Which would explain why it fell off?
6 A. Could be. Because it was oversized.
7 Q. Fingerprints are admissible evidence,
8 correct?
9 A. Yes.
10 Q. And you are aware that your department
11 did not obtain fingerprint matches until Mr. Parks
12 had been arrested for a couple of weeks, are you?
13 Or are you?
14 A. Can I consult with my attorney?
15 Q. No. Maybe I didn't make the question
16 clear.
17 A. No, I wasn't aware.
18 Q. Okay. Did you -- as you sit -- you
19 were never aware?
20 A. No.
21 Q. Okay.
22 A. I didn't have the details of the
23 investigation.
24 THE WITNESS: Can I consult with you
25 now?

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1 court, is it not?
2 A. Yes.
3 Q. And you -- would you agree that this
4 is evidence that exonerates the plaintiff?
5 MR. RUBENSTEIN: Objection as to
6 form. You can answer.
7 A. I guess I have a question. Is this what was
8 taken from the scene?
9 Q. Yes. I can represent that the -- that
10 these were taken from the scene from the glass door,
11 that they were taken by your department to the lab I
12 believe in Monmouth County, and that it took -- the
13 lab was, you know -- there was nothing -- there was
14 a little delay in it being delivered to Monmouth
15 County and there was a little bit of delay at
16 Monmouth County for the results to come back.
17 MR. RUBENSTEIN: Objection to the
18 term delay.
19 A. Well, I guess to your initial question, if
20 you're asking that the results are from what was
21 lifted at the scene, I agree that it was for
22 Barrington Walker.
23 Q. Are you aware that DNA evidence was
24 also taken at the scene?
25 A. I believe -- yes, I am aware, yes.

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1 Q. And were you made aware that the DNA
2 also matched Barrington Walker, albeit for
3 disclosure at a later time?
4 A. I didn't know that.
5 Q. All right. I have come to understand
6 that one can get a hit after the fact when data I
7 guess gets into the system or something?
8 A. Okay.
9 Q. So at a later time there was a DNA hit
10 for the same person?
11 A. I didn't know that.
12 Q. Given that there was fingerprints and
13 a DNA hit from the evidence that was taken by your
14 detectives at the scene, would you agree that all
15 the evidence indicates that it was Barrington Walker
16 who was the actor at the Hampton Inn on January 26,
17 2019?
18 MR. RUBENSTEIN: At what point in
19 time are you asking his opinion?
20 MR. SEXTON: None.
21 MR. RUBENSTEIN: So as of
22 October 18th.
23 A. Yes, I agree.
24 Q. Did you ever -- did anybody ever talk
25 to you about the statement that Nijeer Parks gave --

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1 strike that.
2 Are you aware of the circumstances of
3 how Nijeer Parks came to be at your police
4 headquarters?
5 A. I was told by either Captain Neste or
6 Sergeant Penicaro from the criminal investigation
7 bureau that I believe that our officers went to
8 wherever Mr. Parks lives and notified a relative,
9 I'm not sure who, that they needed to talk to him,
10 that -- I'm not sure if they said they had a
11 warrant, but that he came to our headquarters.
12 Q. So you're aware that he came
13 voluntarily?
14 A. Yes.
15 Q. And are you aware that he said he'd
16 never been in Woodbridge before at that time?
17 A. No.
18 Q. Were you aware that he said he had an
19 alibi?
20 A. No.
21 Q. Were you aware that he never had --
22 that the evidence shows that he asserts that he
23 never had a driver's license until recently after
24 the events of this case?
25 A. I didn't know that.

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1 Q. Are you aware that facial recognition
2 has been shown to be inherently and particularly
3 fallible when used with -- with black faces?
4 MR. RUBENSTEIN: Objection as to
5 form. You can answer.
6 A. I have read it.
7 Q. Where did you read that?
8 A. Same thing, newspaper or on-line.
9 Q. And --
10 A. I don't know that to be a fact. That's
11 what's being claimed and --
12 Q. Fair enough. Are you aware that none
13 of the officers involved on Woodbridge -- from
14 Woodbridge in this matter are African American?
15 MR. RUBENSTEIN: I'm going to object
16 as to every officer that was involved in this
17 matter? That's all I'm asking, that's all, I just
18 want to make sure I understand the question.
19 BY MR. SEXTON:
20 Q. Well, are you aware of any African
21 America officers who were involved in the
22 investigation or arrest of Nijeer Parks?
23 A. I am not.
24 MR. SEXTON: Off the record.
25 (Whereupon, at 12:08 p.m., a recess

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1 was taken.)
2 (Whereupon, at 12:15 p.m., the
3 deposition resumed.)
4 (Whereupon, Woodbridge Police Department
5 Professional Standards Division, Internal Affairs
6 Bureau report, was received and marked as Exhibit
7 No. H-10 for identification.)
8 BY MR. SEXTON:
9 Q. H-10 appears to be first a memo to
10 Captain Kuzma, who is the CLEO.
11 A. That's Chief Law Enforcement Officer, who is
12 the highest ranking captain.
13 Q. That's his title, okay.
14 A. Yeah.
15 Q. From the Valez 3 page report and then
16 followed by copies of a letter with a certified mail
17 receipt to plaintiff. Could you -- have you seen
18 this before?
19 A. No, I haven't.
20 Q. Do you recognize this as something you
21 have seen before?
22 A. I have seen reports like this before, yes.
23 Q. What is this -- is this -- does this
24 have a specific name, this report?
25 A. It is the summary of the investigation by the

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1 internal affairs unit.
2 Q. Is it fair to call it a closeout
3 report?
4 A. I don't know that we actually have a name for
5 it. You would have to ask internal affairs. I see
6 it at the conclusion of their investigation with
7 their findings.
8 Q. This is done -- this was just done
9 December 29, 2021, so at the end of last year, about
10 a year after this lawsuit was filed?
11 A. Correct.
12 Q. And with the benefit of all of the
13 documents that indicates some of which we have
14 looked at today, correct?
15 A. Correct.
16 Q. Is any exonerating evidence mentioned
17 in this report?
18 MR. RUBENSTEIN: I am going to object
19 to the form, but, again, you can answer.
20 A. I have to read through it.
21 Q. Take your time.
22 A. No, not that I see. There's no mention of
23 the fingerprint match to Barrington Walker anywhere
24 in there. So there is no mention of the DNA
25 matching Barrington Walker in there.

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1 Q. So there's no mention by assertion by
2 the suspect that he had never been in Woodbridge
3 before?
4 A. No.
5 Q. There is no mention that the suspect
6 said he had never driven -- had a driver's license
7 before the incident?
8 A. No.
9 Q. There's no mention that Barrington
10 Walker, who is over 6-foot tall while Nijeer Parks
11 is a short, slight man?
12 A. No.
13 Q. There's no mention that the -- is it
14 fair to say this IA report relies entirely on the
15 facial recognition evidence to conclude that there
16 is no -- that there was no problem with the charging
17 and arresting Nijeer Parks?
18 A. No. I think there's a little more than that,
19 because it talks about presenting it to the
20 assistant prosecutor and finding probable cause and
21 then the judge finding probable cause.
22 Q. If you look at findings and
23 conclusions.
24 A. Where are we at?
25 Q. Last page. I find that Detective --

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1 A. Right.
2 Q. -- Tapia --
3 A. Right.
4 Q. -- acted in good faith when he
5 submitted the fraudulent Tennessee driver's license
6 for a facial recognition comparison?
7 A. Right.
8 MR. RUBENSTEIN: It says more than
9 that.
10 MR. SEXTON: It has a whole page.
11 MR. RUBENSTEIN: In that paragraph
12 that you are leaving out.
13 BY MR. SEXTON:
14 Q. My question is about -- in the
15 findings of internal affairs, what evidence did they
16 find in support of the charging and arresting of
17 Nijeer Parks, the findings and conclusions, I see
18 only the facial recognition comparison mentioned.
19 That he himself says that Investigator Velez --
20 third -- fourth paragraph down and findings
21 conclusions, "I reviewed the photographs of
22 Mr. Parks in the high profile comparison and they
23 are similar and can be mistaken as the same person."
24 A. I see that.
25 Q. Is there any other physical evidence?

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1 A. Not in that section. But again, I think you
2 have to take the report as a whole incident and
3 summary where probable cause was found by the
4 assistant prosecutor and then again by the judge.
5 Q. What is the evidence, if any,
6 mentioned?
7 A. In this report?
8 Q. Yeah.
9 A. There isn't other than facial recognition and
10 interview by Detective Kondracki.
11 Q. Where does it say that Kondracki
12 obtained evidence?
13 A. It says he interviewed him.
14 Q. Given what you have seen here today,
15 will you issue any new rules and regulations for
16 this facial technology in your department?
17 A. Not unless the attorney general comes out
18 with his directive.
19 Q. So would you -- so somebody tomorrow
20 could be arrested on the same basis that Nijeer
21 Parks was in your department because the AG has not
22 given you --
23 A. Again, it would have to be in conjunction
24 with other evidence of probable cause other than
25 just facial recognition.

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1 Q. What other evidence was there in this
2 case other than face recognition?
3 A. Again, I think I stated earlier, I was told
4 that there was an identification by one of the
5 officers.
6 Q. Nine days after an incident, that is
7 way too late for a show-up even for a police
8 officer?
9 MR. RUBENSTEIN: Objection as to
10 form. You can answer.
11 A. Again, I think more weight is put on an
12 officer's identification because he had physical
13 contact with the individual, was actually in the
14 process of putting handcuffs on him, so I think it's
15 pretty reasonable that an identification could take
16 place.
17 Q. Did you know that Officer Lee was told
18 that we have the guy Parks and he was handcuffed on
19 the bench and Lee went in and said that's the guy?
20 A. I didn't know that.
21 Q. Do you see some problems with the way
22 that's set up?
23 MR. RUBENSTEIN: Objection as to
24 form. You can answer.
25 A. If I happened the way you're stating?

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1 A. That is correct.
2 Q. Was that -- you mentioned it was a
3 notice of disclaim that made you ask for the IA
4 investigation. Were you talking about the formal
5 complaint that was filed in Superior Court where he
6 was -- Mr. Parks alleged his wrongful arrest and is
7 seeking damages and everything, is that what made
8 you, the Notice of Claim, the actual complaint that
9 his attorney filed for him?
10 A. Yes.
11 Q. You also discussed with counsel some
12 detail about IA investigations. Are there
13 certain -- is there certain types of conduct where
14 the internal affairs division does not do the
15 investigation, but the prosecutor's office does?
16 A. Yes.
17 Q. What types of matters are there?
18 A. Criminal, anything that may relate to a
19 criminal or a possibility a criminal charge, the
20 prosecutor will charge, and we are not allowed to
21 investigate until they return it to you.
22 Q. And the prosecutor's office
23 investigates and determines whether to file criminal
24 charges; is that correct?
25 A. Yes.

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1 Q. Yeah.
2 A. It is very suggestive.
3 Q. And because Parks was sitting down,
4 Lee didn't get to -- would you agree he would not be
5 able to gauge the man's height as easily as if he
6 were standing next to him?
7 A. I can't speak for Officer Lee, I mean --
8 Q. Just your experience, if somebody is
9 sitting down, it's hard to --
10 A. You can't tell exactly, but you can tell if
11 somebody is tall or short.
12 Q. It's a lot more clear if the person is
13 standing next to you, you would agree?
14 A. I would agree, yeah.
15 Q. Thank you for your time. I know
16 you've got a lot on your desk. I appreciate your
17 coming down.
18 MR. RUBENSTEIN: I just have a couple
19 of questions.
20 MS. LEMPKA: I'm good, Director.
21 CROSS-EXAMINATION BY MR. RUBENSTEIN:
22 Q. You mentioned at the beginning of your
23 deposition that you initiated an -- asked an IA
24 investigation be performed into the circumstances
25 surrounding Nijeer Parks' address; is that correct?

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1 Q. Later on if applicable, the
2 prosecutor's office will tell you you can conduct an
3 IA investigation, it's up to you or will instruct
4 you to conduct an IA investigation; is that correct?
5 A. Yes.
6 Q. Okay. And in this document marked as
7 H-1, this is the internal affairs investigation, the
8 second page, second full paragraph, you were asked a
9 few minutes ago about what evidence at the time of
10 Mr. Parks' arrest, not years later. Can you read
11 this paragraph into the record?
12 A. Yes.
13 Q. Thank you.
14 A. "January 27, 2019, Detective Tapia received
15 notification from Rockland County Sheriff's
16 Intelligence Center that they had a high profile
17 comparison to the photo on the fraudulent Tennessee
18 driver's license. The high profile comparison was
19 identified as Nijeer Parks with a date of birth of
20 September 11, 1987. Detective Tapia compared the
21 photo on the fraudulent Tennessee driver's license
22 photo with the photo on Nijeer Parks' assigned New
23 Jersey driver's license, number P, as in Paul,
24 06195927209872 and determined it to be the same
25 person."

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1 Q. All right. So upon -- when you read
2 that, does it indicate that Mr. Parks had a driver's
3 license that was assigned -- given an assigned
4 number?
5 A. Yes.
6 Q. Okay. And according to Detective
7 Tapia, at the time when the events were occurring,
8 he -- did he compare the facial recognition results
9 together with this driver's license?
10 A. Yes.
11 Q. And what was his opinion?
12 A. He determined it to be the same person.
13 Q. Okay. And that was at the time that
14 all these events were occurring?
15 A. That's correct.
16 Q. Okay. Would -- if you know, in your
17 experience as a both police officer and as the
18 director of the Woodbridge Police Department, would
19 back in 2019 the hit that was received from facial
20 recognition coupled with an officer or in this case
21 a Sergeant Tapia -- Detective Tapia finding at the
22 same -- they looked the same -- looked like the same
23 person, would that be ample probable cause to
24 initiate an arrest?
25 MR. SEXTON: Objection to form.

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1 A. I believe that would be.
2 Q. That's all I have.
3 REDIRECT EXAMINATION BY MR. SEXTON:
4 Q. Just a couple of follow up.
5 You know Detective Tapia wasn't at the
6 scene and never saw the actor?
7 A. I don't know that, but it makes sense.
8 Q. So knowing that he was not -- did not
9 observe the actor, do you want to change your answer
10 that you just gave to your attorney?
11 A. Well, I don't believe so. If he was looking
12 at the facial recognition and the driver's license,
13 he can make a judgment.
14 Q. And that's enough evidence to arrest
15 somebody?
16 A. With other things.
17 Q. Is there anything other mentioned in
18 this report?
19 A. As I stated earlier, I believe one of the
20 officers identified Mr. Parks as being the same
21 person who he dealt with on scene on the day of the
22 incident.
23 Q. When you have IDs, the process of
24 ID'ing in an investigation, isn't that a process
25 where eyewitnesses are providing an account?

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1 MR. RUBENSTEIN: Objection as to
2 form. Again, you can answer if you understand the
3 question.
4 A. Am I understanding you to say considering
5 Detective Tapia to be an eyewitness, he wasn't, I
6 agree, if he wasn't on scene if that's the fact.
7 But being able to look at a photo, and a photo of
8 the person you have with you, and comparing them, I
9 think he can still make an identification.
10 Q. But the process of trying to confirm
11 the reliability of visual identification of a
12 suspect, there is -- there's -- there's show-ups,
13 right?
14 A. Correct.
15 Q. And that's -- and that happens right
16 after a crime?
17 A. Correct.
18 Q. Victim or an eyewitness, right, so
19 somebody who's laid their own eyes on, and then
20 there's the addition of reliability that it just
21 happened, it's fresh in your mind, so that allows --
22 because he's clearly suggestive when the police are
23 holding somebody, but because of the time and being
24 right there, the law says that it's reliable enough
25 to put into evidence, right?

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1 A. Correct.
2 Q. Now, later when it's not at the scene,
3 there's all these kinds of rules, you have to get
4 all the people dressed in the same way, have the
5 same facial hair, put them all up, same race, da,
6 da, da, da, and that's also -- the eyewitness does
7 that, right?
8 A. Correct.
9 Q. And I gather -- I've learned in this
10 case that lineups are rarely used anymore because of
11 people -- your detective said they only see them in
12 movies, and they do photo arrays?
13 A. Correct.
14 Q. And there's all kinds of rules for
15 photo arrays?
16 A. That's correct.
17 Q. But those are all ways of testing the
18 reliability of eyewitness evidence, isn't it?
19 A. Yes.
20 Q. So somebody -- so Tapia getting a
21 report from the ROIC and then getting a license --
22 picture of a license, a grainy picture of a license
23 from the scene, where -- what is that? That doesn't
24 appear -- I don't even know how to contextualize it,
25 because it doesn't appear to fall into these types

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Page 89

1 of things dealing with eyewitness testimony.
2 MR. RUBENSTEIN: Objection as to
3 form. You can answer.
4 A. Well, in my opinion, it's still a form of
5 identification, because you're looking at, as I said
6 before, a photograph of what the ROIC has returned
7 to you or one of the ROIC's, I think it was Rockland
8 County returned, and a driver's license of the
9 subject who's being identified, and he can form an
10 opinion that they could be one in the same. It's a
11 form of identification.
12 Q. You think that's enough to satisfy
13 probable cause?
14 A. As I said before, not by itself, I think with
15 other factors.
16 Q. All right. Thank you.
17 **RECROSS-EXAMINATION BY MR. RUBENSTEIN:**
18 Q. Would Officer Lyszyk in this matter
19 having also identified Mr. Parks as being the person
20 who perpetrated the crime, coupled with Detective
21 Tapia's identification when he looked at the two
22 photographs and the document that -- the photograph
23 that was received from the ROIC be enough probable
24 cause to arrest?
25 A. I believe so.

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1 MR. SEXTON: Objection to form.
2 BY MR. RUBENSTEIN:
3 Q. And this is based on your experience
4 of 30 years?
5 A. Correct.
6 Q. Okay. Thank you.
7 **REDIRECT EXAMINATION BY MR. SEXTON:**
8 Q. Just following up on that. If you
9 look at H-6 --
10 MR. RUBENSTEIN: Of which document?
11 MR. SEXTON: Page Parks 21.
12 A. Counselor, did you say 21?
13 Q. Parks 21, yeah.
14 A. Got it.
15 Q. Is there anywhere in page 21 or 22
16 where Officer Lyszyk asserts in support of probable
17 cause that he personally made, based on his having
18 been an eyewitness, an identification of Parks?
19 A. Just repeat the question, please.
20 Q. Is there anything in this affidavit of
21 probable cause where Officer Lyszyk indicates that
22 he identified Parks based upon his having identified
23 the perpetrator -- having observed the perpetrator
24 on January 26?
25 A. Not that I see.

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1 Q. Thank you.
2 (Whereupon, at 12:40 p.m., the
3 deposition was concluded.)
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1 **C E R T I F I C A T E**
2
3 I, LAURA BURNS, a Certified Court
4 Reporter and Notary Public of the State of New
5 Jersey, certify that the foregoing is a true and
6 accurate transcript of the stenographic notes of the
7 deposition of said witness who was first duly sworn
8 by me, on the date and place hereinbefore set forth.
9 I FURTHER CERTIFY that I am neither
10 attorney, nor counsel for, nor related to or
11 employed by, any of the parties to the action in
12 which this deposition was taken, and further that I
13 am not a relative or employee of any attorney or
14 counsel in this case, nor am I financially
15 interested in this case.
16
17 LAURA BURNS, C.C.R.
18 LICENSE NO. 30X100218200
19
20
21
22
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24
25

Pages 89 to 92

EXHIBIT “I”

Page 1

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 21-4021
(JXN)(LDW)

NIJEER PARKS,

Plaintiff,

-v-

JOHN E. MCCORMAC, MAYOR OF
WOODBIDGE, IN HIS PERSONAL
AND OFFICIAL CAPACITY, ROBERT
HUBNER, DIRECTOR OF THE
WOODBIDGE POLICE, IN HIS
PERSONAL AND OFFICIAL CAPACITY,
CITY OF WOODBRIDGE POLICE
OFFICERS, ANDREW LYSZK AND
WOODBIDGE POLICE SGT. JOSEPH
LICCIARDI, WOODBRIDGE POLICE
OFFICERS, JOHN AND JANE DOES
1-20, BEING AS YET UNKNOWN
ACTORS, MIDDLESEX DEPARTMENT
OF CORRECTIONS, JOHN AND JANE
DOES 1-20, BEING UNKNOWN
ACTORS, MIDDLESEX COUNTY
PROSECUTOR, ACTING PROSECUTOR
CHRISTOPHER KUBERIET, IN HIS
PERSONAL AND OFFICIAL CAPACITY,
AND ASSISTANT MIDDLESEX COUNTY
PROSECUTOR, PETER NATASI, AND
IDEMIA, INC.'S BEING THE MAKER
OF THE FACIAL RECOGNITION
SOFTWARE AND ABC CORPORATION,
BEING AN AS YET UNKNOWN SELLER
OR SERVICER OF THE FACIAL
RECOGNITION PROGRAMS,

Defendants.

HUDSON COURT REPORTING & VIDEO (732) 906-2078

Page 3

1
2 IT IS HEREBY STIPULATED AND AGREED by
3 and between the attorneys for the respective
4 parties herein that the sealing, filing and
5 certification of the within deposition be waived;
6 that such deposition may be signed and sworn to
7 before any officer authorized to administer an oath
8 with the same force and effect as if signed and
9 sworn to before a judge.

10
11 IT IS FURTHER STIPULATED AND AGREED
12 that all objections, except as to form, are
13 reserved to the time of trial.
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Page 2

1 TRANSCRIPT of the stenographic notes of
2 the deposition of the above-named witness, called
3 for Oral Examination in the above-entitled matter,
4 said deposition being taken pursuant to District
5 Court Rules of Civil Practice and Procedure, by and
6 before BARBARA DELACRUZ, a Certified Court Reporter
7 of the State of New Jersey, License No. XI01772,
8 and Notary Public of the State of New Jersey and
9 New York, at the Law Offices of DANIEL W. SEXTON,
10 ESQ., 229 New Center Road, Hillsborough, New
11 Jersey, 08844-4003, on September 28, 2023,
12 commencing at 10:54 in the forenoon.
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Page 4

1 A P P E A R A N C E S :

2
3 DANIEL W. SEXTON, ESQ.
4 229 NEW CENTER ROAD
5 HILLSBOROUGH, NJ 08844-4003
6 PHONE:(201) 406-9960
7 ATTORNEYS FOR THE PLAINTIFF

8 (REMOTELY)
9 GARRY J. CLEMENTE, ESQ.
10 JAMES P NOLAN & ASSOCIATES, LLC
11 61 GREEN STREET
12 WOODBRIDGE, NJ 07095-2915
13 PHONE:(732) 636-3344
14 FAX(ES):(732) 636-1175
15 GCLEMENTE@JPNLAW.US
16 ATTORNEYS FOR THE DEFENDANTS
17
18
19
20
21
22
23
24
25

Pages 1 to 4

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1	I N D E X			
2	WITNESS			
3	SEAMUS LYONS			
4		DIRECT	CROSS	REDIRECT
5	By Mr. Sexton	5	90	
6	By Mr. Clemente	83	95	
7	EXHIBITS			
8	NUMBER	DESCRIPTION	PAGE	
	Lyons-1	10-page document	42	
9	Lyons-2	Request for facial	57	
		recognition photo array		
10	Lyons-3	NYSIC request form	59	
	Lyons-4	Rockland County Intel	61	
11		Center incident report		
	Lyons-5	E-mail chain	66	
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Page 7

1 As you see, a stenographic record is being made, so
2 it's important that make all our communications
3 verbally. She can't -- the reporter can't take
4 down nods of the head, et cetera, so we have to say
5 yes, no, things like that. If there is any
6 question -- you're here as a nonparty witness. I
7 appreciate your cooperation, and I appreciate you
8 coming all the way down from New York.
9 If there is a question you don't
10 understand, please say so and I'll rephrase it.
11 If, yeah, so, I think -- do you have any questions
12 of me before we proceed?
13 A. No, I do not.
14 Q. So, you were telling me that you're
15 an investigator with the Rockland County Sheriff's
16 Office?
17 A. That is correct.
18 Q. You mentioned something about a
19 division within that?
20 A. The intel division.
21 Q. And what is the intel division of
22 the Rockland County Sheriff's Office?
23 A. We are comprised of multiple
24 agencies, both Federal and state agencies, law
25 enforcement. We work in conjunction with other

Page 6

1 INVESTIGATOR SEAMUS LYONS,
2 witness herein, having been duly sworn according to
3 law by the Officer, Barbara Delacruz, a Certified
4 Court Reporter for the State of New Jersey and a
5 Notary Public within and for the State of New
6 Jersey and New York, testified as follows:
7
8 DIRECT EXAMINATION BY MR. SEXTON:
9 Q. All right. Good morning, sir, thank
10 you for coming and appearing today. I wonder if
11 you could just -- how long have you -- what is your
12 position currently?
13 A. I'm currently an investigator with
14 the Rockland County Sheriff's Department, assigned
15 to the intel division.
16 Q. I should do a couple preliminaries.
17 Have you ever been deposed before?
18 A. Yes, I have.
19 Q. Approximately how many times?
20 A. Five or six.
21 Q. Okay. When was the most recent time
22 you've been deposed?
23 A. Probably four years ago.
24 Q. Okay. So, I'll, because of your
25 experience, just very briefly go over the rules.

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1 police departments throughout the county, in
2 Rockland, the New York area, New Jersey, and other
3 states.
4 Q. When was -- does it have a -- was
5 it, what is this inter, interagency, multistate
6 entity known as?
7 A. It's known as the Rockland County
8 Intelligence Center, where we support -- we provide
9 services to outside law enforcement, be it manpower
10 support, be it police records management, providing
11 them with intelligence gathering, things of that
12 nature.
13 Q. Okay, does it, does it have the
14 acronym ROCK?
15 A. RCIC, Rockland County Intel Center.
16 Q. RCIC, okay. And when was that
17 formed?
18 A. Well, I've been a police officer for
19 over 27 years, so, I would say probably over 20
20 years ago it was formed.
21 Q. Do you know what, why it was formed,
22 what was, surrounded its formation or --
23 A. It was just a law enforcement
24 gathering, a meeting, actually, that took place
25 where they decided to get experienced law

Pages 5 to 8

Page 9

1 enforcement officers together and, after 9/11, it
2 was basically focused on terrorism, crimes,
3 homicides, gangs, things of that nature.
4 Q. Okay. Were you there in your early
5 days?
6 A. No. My early days started, many
7 years ago, I was a police officer. I graduated the
8 Rockland County Police Academy, and I was a village
9 police officer for approximately two and a half
10 years. I left that, and I attended the New York
11 City Police Academy, where I worked in the confines
12 of the four-six precinct. I was there a short
13 period of time. I left there, and then attended
14 the New York State Police Academy, where I finished
15 out my career before coming to the Rockland County
16 Sheriff's Department.
17 Q. So, when you say 27 years of
18 service, would that encompass from when you were a
19 village officer to when you served as a state
20 trooper?
21 A. That would be combined years of
22 service, yes.
23 Q. When did you leave the State, the
24 State Police?
25 A. I left the State Police in the year

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1 Q. How long were you an investigator
2 with the State Police?
3 A. A short period of time. I came back
4 to the road as a uniformed member.
5 Q. When you were an investigator for
6 the state police, did you have any special
7 training?
8 A. Yes, I did.
9 Q. Tell me about your state police
10 training.
11 A. I graduated the New York State
12 Police Academy in Albany, which is six months long,
13 where you actually have to reside at the academy.
14 Where you live there and just come home on the
15 weekends. Basically you're trained in police
16 science, New York State penal law, vehicle and
17 traffic law, and the, basically, police functions
18 as a uniformed member of the New York State Police.
19 Q. Okay. When you became -- how about
20 when you were briefly an investigator, was there
21 special training associated with that?
22 A. It's pretty -- it's basically
23 on-the-job training, where you attend the academy
24 for another week, where you learn investigative
25 techniques.

Page 10

1 of 2013.
2 Q. And so now you're an investigator in
3 the sheriff's office. Are you, are you a sworn law
4 enforcement officer, or --
5 A. I am a sworn police officer, yes, I
6 am.
7 Q. What is your position within the
8 intel division of the Rockland County Intelligence
9 Center?
10 A. I'm assigned as an investigator.
11 Q. So, an investigator is an
12 assignment, not a rank?
13 A. Correct, my title, as an
14 investigator, is investigator with the Rockland
15 County Sheriff's Department. It is basically being
16 a detective within the Rockland County Sheriff's
17 Department. We have the same functions.
18 Q. And what is your rank?
19 A. I don't hold a rank, I am just a
20 title, investigator.
21 Q. What was the -- what rank were you
22 with the State Police?
23 A. I was a uniformed New York State
24 Trooper promoted to investigator, and retired as a
25 New York State Trooper.

Page 12

1 Q. In that week, do you remember, when
2 was that week?
3 A. I don't recall when that was.
4 Q. A while back?
5 A. Yeah, many years ago.
6 Q. Do you remember anything that you
7 were taught in that week?
8 A. Basically, interview techniques,
9 surveillance techniques, interviewing and
10 interrogation, pretty much, basically, that's it,
11 and then it's basically on-the-job training.
12 Q. Okay. Skipping ahead to, I guess it
13 was 2013, when you go to the RCIC --
14 A. Correct.
15 Q. -- when -- was that -- did you go
16 straight into the RCIC when you went to Rockland
17 County?
18 A. No, I did not.
19 Q. Okay. When you -- where did you
20 first land at Rockland County?
21 A. I landed in the Rockland County
22 Sheriff's patrol division as a deputy sheriff in
23 prisoner transports.
24 Q. Okay. When did you move to the
25 RCIC?

Pages 9 to 12

Page 13

1 A. Within that first year, so, 2013.
2 Q. How did that come about?
3 A. I requested it through the Sheriff's
4 Department. You put a resume together, and your
5 training experience and background, and then it's
6 an appointed position by the sheriff.
7 Q. Okay, when, when you moved there,
8 did you have any -- were you given training?
9 A. Yes.
10 Q. Can you tell me about the training
11 you were given?
12 A. It's basically on-the-job training,
13 where you're taught by a senior officer, you know,
14 it's basically, conducting backgrounds, running
15 checks, like I stated earlier, surveillance
16 techniques, pole cameras, installation,
17 investigating crimes, rapes, homicides, and
18 basically assisting outside agencies with manpower
19 support or workups. When I say "workups," we
20 conduct criminal histories, we run financials, we
21 do clear reports. When I say "clear reports," it's
22 pretty much a check of your background,
23 recordkeeping, banks, prior addresses, family
24 members, last known addresses.
25 Q. Who, whom do you do this for?

Page 15

1 Q. Why the different title?
2 A. Because some are sent or appointed
3 to Rockland County at the intel center from other
4 departments. We have a detective from another
5 police department, which would be the Village or
6 the Town of Haverstraw, so he is assigned to the
7 Rockland County Intel Center as a detective from
8 that department.
9 Q. Is that, how -- Officer Dey, D-E-Y?
10 A. Lieutenant Rich Dey.
11 Q. Okay. So he's with the Palisades
12 Interstate Police, right?
13 A. He's with the Palisades Interstate
14 Parkway Police in Alpine, New Jersey.
15 Q. PIPP.
16 A. Correct.
17 Q. What's his first name?
18 A. Richard.
19 Q. Richard. Okay. He's a lieutenant,
20 you said?
21 A. He's a lieutenant.
22 Q. Is he one of these 15 members?
23 A. He is assigned to the Rockland
24 County Intel Center, yes.
25 Q. And when you're assigned there, is

Page 14

1 A. This usually comes in through a
2 request, through any agency, be it through an
3 e-mail or direct call or in person, an agency can
4 come in and request assistance with any criminal
5 investigation. It's then assigned a case number.
6 That case number is then turned over to either a
7 boss or a lieutenant, who will then assign it to a
8 member of the Rockland County Intel Center.
9 Q. How many, how many members are in
10 the RCIC?
11 A. Right now, I believe we have 15
12 members, and one senior crime analyst, and we have
13 another analyst starting very shortly.
14 Q. Other than the senior crime analyst,
15 is everyone else an investigator?
16 A. No, we have, we are a mix of both
17 investigators, detectives, and patrol, patrol
18 personnel.
19 Q. Okay. Approximately how many are --
20 how does that break down number wise?
21 A. Number wise it's more than half of
22 our investigators or detectives.
23 Q. Is there any difference between the
24 duties of a detective and an investigator?
25 A. No, they're both the same duties.

Page 16

1 that your full-time gig, or you do other --
2 A. You wear different hats. He'll be
3 assigned one or two days a week, and then he does
4 the patrol function at his station, in Alpine.
5 Q. When you assist another agency, do
6 they, is there a fee for the service?
7 A. None, no, not at all.
8 Q. So, this sounds like kind of an
9 expensive operation. Who pays for it?
10 A. It's funded, it's funded both by the
11 Federal grant money, the County, and also the
12 Rockland County Sheriff's Department, and also
13 grants. And we also take forfeit money, so, half
14 the moneys are, if there is a case that's resolved,
15 or, it's taken care of in court, the money is
16 actually spent and shared within the County to
17 different departments, including the Rockland
18 County Intel Center.
19 Q. In your experience -- well, prior to
20 coming to RCIC, had you -- what was your experience
21 with biometric evidence?
22 A. Not too much. I wasn't really too
23 familiar with it until reading it, or in training
24 at the -- for HIDTA, which is the high-intensity
25 drug trafficking area. It's an acronym for

Pages 13 to 16

Page 17

1 eJustice.
2 Q. H-I-D-E-A?
3 A. H-I-D-T-A.
4 Q. When were you involved in HIDTA?
5 A. Basically, HIDTA is part of
6 eJustice. EJustice is the learning tool where we
7 can access records through New York State. These
8 records give us direct access to criminal
9 histories, mugshots, DMV files, registered
10 vehicles, DMV photos, out-of-state criminal
11 histories.
12 Q. What's the FBI database? What's the
13 thing that, you know, everybody used to look up,
14 and then it was rather insecure, then it became
15 secure? You would just sort of find -- you would
16 run someone's plates, and you would get a whole --
17 A. That is through eJustice.
18 MR. CLEMENTE: Object to form, you
19 can answer.
20 THE WITNESS: I can answer?
21 Q. Okay. I forgot you were there.
22 Go ahead.
23 A. Basically, eJustice gives the same
24 functions as the files you're describing. We have
25 access to running out-of-state plates, criminal

Page 19

1 discussed before, and it's part of the software
2 that HIDTA utilizes in using facial recognition.
3 Q. Okay. If I told you that biometric
4 would encompass everything from eye irises to
5 facial recognition to fingerprints and D.N.A.,
6 would that -- would you agree with that?
7 A. I would agree with that, yes.
8 Q. So, have you -- of those biometric
9 tests, if we could just go briefly through, have
10 you any experience with iris, eye, iris tests, in
11 your work as an investigator?
12 A. No.
13 Q. How about fingerprints?
14 A. In what form?
15 Q. Any form, have you dealt with
16 fingerprints?
17 A. Absolutely.
18 Q. And what, what -- when have you
19 dealt with fingerprints?
20 A. I've been a police officer 27 years.
21 I have fingerprinted hundreds of people, be it ink,
22 or be it LiveScan. When I say LiveScan, that is a
23 computer-recognized imaging where we actually roll
24 the fingerprints.
25 Q. I think that's how I was printed for

Page 18

1 histories. If you run a plate, we'll get
2 associated hits, if there's an associated hit on a
3 wanted person, so, as for the FBI, they have their
4 own records management, keeping system. I really
5 can't speak about what records they run. I know
6 they can do offline searches, but again, I'm not
7 familiar with that.
8 Q. Who manages eJustice?
9 A. It's managed by the State of New
10 York up in Albany, so it's part of the New York
11 State Police portal, and it's -- it's basically run
12 by the division of criminal justice in the State of
13 New York.
14 Q. So, when did you work -- so HIDTA,
15 was that, like, an initiative, or is it a tool?
16 A. It's a tool. It's a software, and
17 it's a tool, part of eJustice.
18 Q. Okay, when did you use that tool?
19 A. We basically use it all the time.
20 Q. Now, when I said, asked you about
21 biometric evidence, what do you understand
22 biometric to be?
23 A. Like I said, I'm not too familiar
24 with biometrics or algorithms or how HIDTA works
25 with facial recognition. I know that it's been

Page 20

1 when I got out of the -- became a lawyer in New
2 York.
3 What about in, as an investigator?
4 Have you taken prints from a scene, a crime scene?
5 A. No, I have not done that, no.
6 Q. Have you utilized prints taken by
7 others in investigating persons or incidents?
8 A. No. I have assisted in crime scene,
9 we have a separate unit that will actually do crime
10 scenes where they actually do the fingerprinting.
11 Q. Do prints come back, is it CODIS?
12 A. Correct.
13 Q. Who runs CODIS?
14 A. That's part of the eJustice system
15 too, out of Albany, I believe.
16 Q. And do you get results back from
17 CODIS, fingerprint results back from CODIS, and
18 have to evaluate the reports of CODIS?
19 A. You could. That's out of my realm.
20 I would never take part in that. That would be a
21 trained crime scene investigator that's assigned to
22 the BCI, the Bureau of Criminal Identification.
23 Q. Okay. How about, let me see,
24 D.N.A., have you worked with D.N.A. evidence?
25 A. I have assisted. I've never

Pages 17 to 20

Page 21

1 physically been part of collecting D.N.A. Again,
2 that falls under the crime scene unit, which is
3 part of the BCI unit.
4 Q. And how about in investigations of
5 persons or incidents? Have you had occasion to
6 have to interpret D.N.A. results? Is it also from
7 CODIS?
8 A. It could be. There are different
9 systems that the BCI utilizes. Again, I'm going to
10 say that's out of my realm. That's part of crime
11 scene, and they are the trained professionals that
12 do the evidence collection, so they're part of the
13 evidence collection team.
14 Q. Okay. And how about facial
15 recognition? What's your experience with facial
16 recognition technology?
17 A. As for utilizing it at the
18 intelligence center, we've been successful with it.
19 Q. Okay. When did you start using it?
20 A. Probably, we started utilizing it at
21 the intel center over four years ago, but prior to
22 that, there were usages where we actually used it,
23 we would send it up to another agency to request a
24 facial rec before we obtained access to facial rec.
25 Q. So, the investigation that is at the

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1 Q. So you don't have any idea what
2 company?
3 A. I don't know the company, no. It's
4 a software that they utilize, like if I could use a
5 comparison, we are operators, we are not, we are
6 not -- we don't know how to maintain software. All
7 we know how to do is use the system. We're trained
8 to use the system. Just like anything else, like a
9 Dräger, like an instrument to detect alcohol, we're
10 trained operators. If we have to take the
11 instrument apart, that's a different story.
12 Q. Tell me about the training to be an
13 operator of this software.
14 A. Well, it's basically, we're tested,
15 there is two tests. There is tests to run criminal
16 histories, which is, I believe it's a 25-question
17 test. And then there is a separate test, exam,
18 same amount of questions, I believe, for running
19 plates, data, driver's license.
20 Q. Plates, you mean license plates?
21 A. Correct, sir.
22 Q. Now, so, is this, like, the same
23 software that does the criminal history, the
24 plates, and the facial?
25 A. Facial rec is part of eJustice.

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1 basis of this lawsuit involved a, work done by the
2 RCIC in January, 2019. Would that have been right
3 at the start, then, of the RCIC's use of conducting
4 facial recognition?
5 A. It would be around that time period,
6 yes.
7 Q. Okay. So, prior to 2019, where
8 would you -- how would you deal with facial
9 recognition?
10 A. It would be submitted, if we were
11 provided a photograph at that point in time, we
12 would submit the photo through the New York State
13 Police information center, and have them run the
14 image through their facial rec.
15 Q. Okay. Do you have any idea what
16 technology the New York State Police had been using
17 prior to 2019?
18 A. Prior to 2019, no. I believe it was
19 the same technology, biometrics, I believe, but I'm
20 not 100 percent sure.
21 Q. Do you know, in 2019, when the RCIC
22 started using it, do you know what technology you
23 were using?
24 A. No. We were just using the software
25 provided through HIDTA.

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1 EJustice has HIDTA attached to eJustice, yes.
2 They're basically the same software, where you're
3 logging onto the computer, and you're running the
4 software through eJustice.
5 Q. Did you have any specific, any
6 training that was specific to the facial
7 recognition aspect of this software?
8 A. There is always training. There is
9 bulletins that are put out on eJustice that you'll
10 either read, initial, they're always sent down. As
11 for training, it's part of the process of when you
12 learn how to run HIDTA, to submit an image through,
13 it's basically going through the steps, the
14 direction of facial recognition and how it works.
15 Q. Where would this training take
16 place?
17 A. It could take place at your desk,
18 your cubicle, as soon as you log on.
19 Q. Did you ever do any -- did anybody
20 ever come into the office to give you, like,
21 training seminars or anything like that on the use
22 of facial recognition?
23 A. Not for eJustice. For other
24 software they have, but not for eJustice.
25 Q. Was it ever about facial

Pages 21 to 24

Page 25

1 recognition?
2 A. No.
3 Q. Did you ever go to any, any outside
4 place to get training in facial recognition
5 technology?
6 A. No, I did not.
7 Q. Do you know if anybody from the RCIC
8 ever went to any other place to get facial
9 recognition training?
10 A. No, I don't.
11 Q. Do you know if anybody ever went to
12 FBI training in Quantico or anyplace for facial
13 recognition training?
14 A. No.
15 Q. Do you know if the FBI ever sent
16 people to the RCIC to train personnel in the use of
17 facial recognition technology?
18 A. No. Recently, they did assign a
19 training course, which is a three-day course, which
20 is being taught, I believe, by the FBI, and that's
21 assigned to all members at the Rockland County
22 Intel Center.
23 Q. When did that start?
24 A. Probably four or five months ago.
25 They're doing periodic training, training a few at

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1 a time.
2 Q. Do they come into the RCIC, or do
3 people go to them?
4 A. This is going to be a web-based.
5 Web-based, where it's a three-day course.
6 Q. Like, do you guys have to do, as
7 investigators, do you have to do, do you have some
8 kind of, like, continuing education requirement you
9 have to do each year or anything like that?
10 A. For which aspect of it?
11 Q. Any aspect.
12 A. Yeah, we're continuously training,
13 just like firearms, just doing the range, doing on
14 course, line, computer-based training, we do a lot
15 of, you know, meetings, we have brochures that are
16 sent down, or e-mails that you have to read or take
17 a course in this, and it's pretty much web-based,
18 so, we're always, we're always learning.
19 Q. Now, you mentioned that you would
20 get bulletins from, I think you said eJustice, or
21 was it HIDTA, about facial recognition technology.
22 Do you remember any bulletins that
23 you received over the years about facial
24 recognition?
25 A. No.

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1 Q. If I wanted to see those, where
2 would I, would they be from the State Police?
3 A. Correct, they would be in records.
4 They're constantly sending out stuff for years. I
5 believe they could be archived. You log on to
6 eJustice, you can actually see, they'll give you
7 updates on technology, on changes of the law,
8 changing of aspects of running plates or looking
9 into a DMV photo or certain aspects of that. There
10 is always a post where you actually have to read it
11 and just continue on.
12 Q. Now, you said that, a little bit ago
13 you said that you've had a lot of success with
14 facial recognition technology.
15 A. Yes.
16 Q. Could you tell me about the success?
17 And by "you," I take it you mean the RCIC?
18 A. Correct.
19 Q. What success have you had with it?
20 A. Me, personally, you want to know?
21 Q. Yeah, you can start with yourself.
22 A. Me, personally, I've been provided
23 hundreds of cases where me, as an investigator, if
24 I'm assigned a case, and there is an image, and
25 they want the image run through facial rec, either

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1 the agency or the police department or who it's
2 coming in through or the request is basically,
3 they've either exhausted all measures and tried
4 separate facial rec technology, where they then
5 submit it to us.
6 Me, personally, I'll do a facial
7 rec, the software has a threshold. I will look at
8 that image, I will do a comparison on that image.
9 I will get a second investigator to get his opinion
10 on the image, and then from there, me personally
11 will dig into the subject that the image resembles,
12 or is the subject, and when I say, I do further
13 investigation, I do my due diligence, I'll either
14 run the criminal history, run the photo, get the
15 attached photos. When I say "attached photos,"
16 there is more than one mugshot image throughout the
17 state. We'll do a comparison, we will do a
18 side-by-side.
19 Q. Who is we?
20 A. The intel center, whoever's
21 assisting me. Or if it's just me, basically from
22 soup to nuts, we can just basically do the full
23 investigation, and then determine whether or not it
24 is the subject.
25 Q. And this, this process you described

Pages 25 to 28

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1 here, is this the way you were trained to do this?
2 A. Yes, it is.
3 Q. Okay. And this training was the, I
4 think you described it as being on the job and
5 through the, I think, other investigators and
6 detectives, and then through the bulletins and the
7 State Police; is that correct?
8 A. Basically, you know, I can't speak
9 for other officers or other investigators, but it's
10 more of on-the-job training, you know, what to do,
11 what to look for, what investigative steps you have
12 to take as the investigator. You do your due
13 diligence. You take every avenue before making a
14 decision. You look into the arrest record, you
15 know, run a criminal history. Gather all of that
16 intel, be it through facial rec, where we then look
17 outside the image, where we go through social media
18 accounts.
19 We then provide all this information
20 to the investigative party, be it another police
21 department, a Federal law enforcement, an outside
22 law enforcement, be it New Jersey, Pennsylvania,
23 California, you name it, we've assisted many
24 states.
25 Q. What's your understanding, when you

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1 give an outside investigating agent or agency your
2 results, what are you giving them?
3 A. Pretty much we're taking the files,
4 we'll either PDF all the files together, or send
5 them individually via e-mail, and we explain to the
6 individual that this is a possible lead. There is
7 a preamble that goes with that where this is a
8 possible learning tool only. It is up to the
9 investigator to determine or take any legal or
10 lawful action.
11 Q. A possible learning tool, did you
12 say?
13 A. Yes, learning tool or possible lead
14 to follow.
15 Q. Okay. And you said that disclaimer
16 is somewhere on the --
17 A. That comes via the e-mail on the
18 bottom of the e-mail, and it's sent along with all
19 the documents that we send, or if it's in person,
20 we explain that, or if it's through a phone call,
21 we explain to them on the phone that this is only a
22 lead, and should be treated as such.
23 Q. And where -- where does this
24 language come from, do you know?
25 A. It's part of the Rockland County

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1 Sheriff's policy program, that they come up with.
2 Q. And do you know when that policy
3 was, was promulgated?
4 A. I believe the policy was put into
5 effect last year.
6 Q. You wouldn't happen to know, is it
7 by general order, or do you know?
8 A. No, I don't.
9 Q. Are you able to -- so when you get a
10 match, can you describe for me how an investigator
11 would view that match in kind of the world of
12 solving a crime? Like, you know, would you agree
13 that there is a, there is a spectrum of reliability
14 of evidence, so, for instance, a show-up has
15 certain, certain accepted levels of validity? A
16 shoe print in the mud would have certain weight?
17 What would a -- am I making sense?
18 A. Somewhat.
19 MR. CLEMENTE: Objection to form,
20 Dan, can you bring that up a little bit,
21 please.
22 Q. In the universe of evidence, where
23 does a facial recognition hit fall?
24 MR. CLEMENTE: Objection to form.
25 Q. You can answer.

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1 A. I wouldn't really refer to it as a
2 spectrum. I would refer to it as the software
3 conducting what it's made to do, and taking the
4 characteristics of the ears, the nose, the
5 cheekbones, the nose, giving you a probability of a
6 match. Again, sometimes you won't get a match if
7 this person was never arrested before. The
8 probability that you're looking at, this
9 computer-based software will give you a threshold.
10 That threshold could be from a number, I'll just
11 throw a number out there, from 200 to 999.
12 Obviously, the higher the threshold number is, the
13 closer you are to the suspect, or possible suspect,
14 we like to look at all images.
15 Q. What do you mean? I'm confused by
16 200 to 299. Isn't 100 percent, like, the highest?
17 A. You could get an image, you could
18 get an image and get 200 results.
19 Q. I see --
20 A. You got to scan through them. The
21 higher the probability is, the more you're going to
22 look at that subject. You look at each, each one,
23 when you do -- when you compare an image, you
24 physically take the human factor into effect where
25 you're looking at that image, not just based on the

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1 computerized image, but by the mugshot, by prior
2 images, things of that nature, you want to do, you
3 want to keep the human element part of it.
4 Q. Is it your understanding that the
5 facial recognition technology that you were using,
6 and are using, that it, that its database only
7 consists of faces of persons who have been
8 previously incarcerated, or some -- or processed,
9 at any rate, or -- with mugshots, et cetera? You
10 referenced mugshots.
11 A. The images that the software is
12 sorting through are arrest photos.
13 Q. That's it?
14 A. Be it New York or New Jersey, where
15 they're -- at some point, that subject was
16 photographed for crime.
17 Q. There is no faces from Facebook or
18 --
19 A. No, that's something later on, where
20 you conduct as an investigator, or a detective, if
21 you want to look into the case, where you decide
22 this is your suspect, then you take that next step,
23 or the investigator or detective would say, Now let
24 me dig a little bit further into social media, be
25 it Facebook, be it Instagram.

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1 Q. Are you -- you're absolutely certain
2 that only mugshots are in the database of your
3 facial recognition software?
4 A. Basically, yes.
5 Q. What do you base that understanding
6 on?
7 A. My training and experience.
8 Q. What do you remember -- do you
9 remember, prior to coming here today, did you
10 review any records?
11 A. Yes, I did.
12 Q. What records did you review?
13 A. I only reviewed the, once the
14 subpoena was issued, I reviewed the incident report
15 and the attachments to that incident report. When
16 I say "incident report," it's the Rockland County
17 Intel incident report.
18 Q. When you received the subpoena, was
19 that the first time you were made aware of this
20 lawsuit?
21 A. No. I was made aware of it by my
22 current supervisor, Detective Lieutenant Ford,
23 F-O-R-D.
24 Q. Okay. And what did Lieutenant -- do
25 you remember when that was?

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1 A. Not offhand. I was provided the
2 e-mail sent, and requested to attach the subpoena
3 to the report.
4 Q. So, this was recent?
5 A. Correct, yeah, treatment. Wasn't
6 too long ago.
7 Q. Okay. Did you, did you talk to
8 anybody about this case before coming here today?
9 A. No, I did not.
10 Q. You didn't talk to -- you haven't
11 talked to Lieutenant Ford?
12 A. Lieutenant Ford is away at training.
13 He is aware that I'm here today, along with
14 counsel.
15 Q. Okay. Have you talked to anybody at
16 the New York State Police about the case?
17 A. No.
18 Q. So, having reviewed your records,
19 what do you recall about the request for assistance
20 from Woodbridge on or about January 26, 2019?
21 A. Basically, on that day, I was
22 working a day tour. Day tour is 0800 to 1500, 8:00
23 a.m. to 3:00 p.m. While in the office, via e-mail,
24 we receive bulletins, be it New York State,
25 statewide. One of the bulletins was an assault on

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1 a police officer that came in through Woodbridge.
2 Lieutenant Dey was working that day. He had also
3 advised me of this bulletin that was sent out.
4 On the bulletin it had an image. We
5 took that image and we submitted it through facial
6 rec.
7 Q. So you took the initiative to do
8 this investigation based on just this coming across
9 the tran -- this bulletin?
10 A. Yes. The bulletin is basically a
11 request for police service, or a request to assist.
12 Q. When you -- of your investigations,
13 what -- what percentage are done pursuant to a
14 bulletin coming across your desk? Is that how all
15 of your investigations are done, or do you get
16 specific -- do you get a call from -- Hi, I'm Joe
17 in Atlantic City, can you help me, Seamus,
18 something like that?
19 A. Well, basically you get a phone
20 call, an e-mail, a request, be it in person, where
21 somebody will come in, or provide us with video
22 footage, a fraudulent document with a photo.
23 Basically, the requests that come in are through
24 bulletins, and if the agency, like, we have New
25 Jersey personnel that works in our office. If it's

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1 part of a New Jersey investigation, we assist them.
2 If we have any records or any police contact
3 locally, we will take that information and send
4 that to the police department and provide it to the
5 requesting party.
6 Q. Do you -- do you know anything about
7 the use of facial recognition technology by the New
8 Jersey State Police in their, some of their special
9 initiatives regarding auto theft, auto rings, theft
10 rings?
11 A. No, I don't.
12 Q. Okay. All right. So, when this
13 comes across, you call it a bulletin. So does that
14 go -- is that going to many different, like, is
15 that sent nationwide, for instance, like, you know,
16 an all-points bulletin, such-and-such person, or,
17 where does it go?
18 A. It is basically up to that
19 department or that investigator, to, how far he
20 wants that bulletin to go. You can basically do
21 just the State of New Jersey. You could do it New
22 York, Pennsylvania, Connecticut. Again, it depends
23 on the investigator or detective.
24 Basically, they're sent out
25 requesting assistance or similar incidents that

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1 characteristics that did match enough for us to be
2 in agreement where we would provide Woodbridge with
3 this information as a possible lead.
4 Q. Are there different gradations, is
5 that a term of art, a possible lead?
6 A. Basically, they all are. It's up to
7 the agency to conduct their investigation.
8 Q. So when you forward it out, you
9 don't characterize it as a, as a, a surefire lead
10 or a direct hit or a near hit, or anything like
11 that?
12 A. Not 100 percent.
13 Q. So, how long did this -- you said it
14 was a very basic investigation. How long did this
15 take?
16 A. The process itself probably took
17 less than 15 or 20 minutes.
18 Q. You said you showed it. Did you
19 show it -- sent results to Dey in Woodbridge. Did
20 you do that simultaneously, or did you send it
21 first to one, and then to the other?
22 A. No, simultaneous.
23 Q. What happened next?
24 A. After it's sent, like I said, it's
25 sent via e-mail, so, I don't recall if it was a

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1 happened out of state, where you can connect the
2 dots and say, We had a similar case in New York,
3 New Jersey, Florida, it's the same subject.
4 Q. Do you know or remember how broadly
5 circulated this bulletin was? Was it just sent to
6 you, or was it sent to multiple places?
7 A. This bulletin was sent to multiple,
8 multiple agencies.
9 Q. So, you said that Lieutenant Dey was
10 working that day in the RCIC. Was he involved in
11 the actual investigation, or did he just
12 green-light the investigation?
13 A. He wasn't directly involved. He
14 provided the same bulletin that I had received via
15 my e-mail. Either he was at our station, or he was
16 at his station, I don't recall, but either way, we
17 had a conversation and we were in contact with each
18 other, where I did send, actually, the results to
19 both him and Woodbridge PD.
20 Q. Okay. So what did your
21 investigation consist of?
22 A. This was very basic. Like I said,
23 we took the image, we submitted it, we did get a
24 return. There were two photos, I believe, with
25 images. There was a resemblance, there was some

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1 direct response back from Woodbridge. I then take
2 those files, attach them to our Rockland County
3 Intel incident report, where it's documented and
4 lodged into our records, management keeping, and
5 either the day after or the next day, I did receive
6 an e-mail that the information was received.
7 Q. Anything else?
8 A. No.
9 Q. Okay. How did you receive
10 confirmation of receipt, was that by --
11 A. I believe Detective Tapia responded
12 to my e-mail, and I didn't hear back from them
13 after the fact. A lot of cases, after we've
14 provided service, we don't follow each and every
15 case. We deal with hundreds of cases. After we
16 provide the service, that department will go on and
17 do their investigation. There are times where
18 there will be an updated bulletin, where the person
19 -- where the bulletin will state, Subject has been
20 identified and charged, but that doesn't happen all
21 the time, and like I said, we don't keep track of
22 the outside cases that are actually going on,
23 because we deal with so many cases.
24 Q. Did you ever speak to Detective
25 Tapia?

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1 A. Detective Tapia and I had a phone
2 conversation briefly, months later. He only called
3 to request the Rockland County Intel incident
4 report number, and I inquired as to the condition
5 of the officer that was almost struck. It was a
6 brief conversation, and that's pretty much all we
7 discussed.
8 Q. It was your understanding that an
9 officer had been struck?
10 A. Nearly struck, or was injured during
11 this incident.
12 Q. So on what do you base your
13 understanding that there had been an officer
14 injured in the original incident?
15 A. I believe it stated it in the police
16 bulletin.
17 Q. Now, has -- after the RCIC became
18 aware of this lawsuit, has any critical analysis
19 been done about this file?
20 A. When you say, "file" --
21 Q. This investigation.
22 A. This particular investigation?
23 Q. Yes.
24 A. No.
25 Q. There has been no trainings that

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1 provided by the WPD, or is it just the first
2 page he's referring to?
3 Q. I believe it's just the first page,
4 but can you clarify that?
5 A. Page 1, just the Woodbridge Township
6 bulletin, just page 1.
7 MR. CLEMENTE: Thank you.
8 Q. And so it says, sent 1/27, at 11:12,
9 so that's -- that would be military time?
10 A. Correct.
11 Q. And that case number, that would be
12 Woodbridge's case number, or your case number?
13 A. That would be the Woodbridge
14 Township Police Department's case number.
15 Q. And author 481, that refers to
16 somebody at Woodbridge?
17 A. That's correct.
18 Q. And the narrative there, that's also
19 written by Woodbridge?
20 A. Correct, the entire, the entire
21 bulletin is prepared by the Woodbridge Township
22 Police Department.
23 Q. Now, the next page of this, Lyons-1,
24 up top it says, top left corner says, Comparison in
25 regular size print and enlarged print side-by-side

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1 have been given as a result of this investigation?
2 A. No.
3 Q. There's been no discipline?
4 A. No.
5 Q. Let me look at some documents.
6 (Exhibit Lyons-1, 10-page document,
7 received and marked for identification by
8 the Reporter.)
9 (Recess taken at 11:46 a.m.)
10 (Proceedings resumed at 11:58 a.m.)
11 Q. So, I'm showing you, sir, the
12 document, 10-page document, that we marked as
13 Lyons-1, and I represented to you that I received
14 this in response to a subpoena duces tecum on your
15 office. Do you recognize this document?
16 A. Yes, I do.
17 Q. What do you recognize it as?
18 A. This is a bulletin that was sent out
19 from Woodbridge Township Police.
20 Q. The bulletin we were just talking
21 about?
22 A. Correct, it's an aggravated assault
23 upon a police officer, attempt to ID.
24 MR. CLEMENTE: I want to clarify, is
25 he referring to all 10 pages as what was

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1 comparison.
2 A. Yes.
3 Q. Do you recognize this document?
4 A. I do.
5 Q. What do you recognize it as?
6 A. This is part of the image search
7 that returned, through HIDTA, through facial
8 recognition, as part of the subject and part of the
9 possible suspect.
10 Q. Would this be the first data point
11 you got in your search?
12 A. This would be the first point, yes.
13 Q. Okay. Would you agree that the
14 left, the picture on the left is extremely dark and
15 hard to make out?
16 MR. CLEMENTE: Objection to form.
17 THE WITNESS: I would say the photo
18 is blurry, the image is blurred.
19 Q. The bottom date is 1/28/2019, so
20 that's the day after this bulletin was issued?
21 A. That's correct.
22 Q. What's the third page, Lyons-1, if
23 you recognize that page?
24 A. Yes, this would be an arrest photo
25 mugshot profile image of the suspect. The subject

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1 in this, Nijeer Parks, this is one of his mugshot
2 profiles when he was arrested.
3 Q. And did you obtain this as part of
4 your investigation as well?
5 A. I did.
6 Q. Is this, going through this
7 document, are these in order of how you received
8 them in your investigation?
9 A. Yes, they are.
10 Q. Okay. And is this how they exist in
11 your file? Do you maintain a file on
12 investigations?
13 A. Yes, I do.
14 Q. Either electronic or physical?
15 A. Yes, I do both, actually.
16 Q. Okay.
17 A. This entire, this entire 10-page
18 document would be scanned and attached to my
19 incident intel report, as a file.
20 Q. To your, was it called your intel?
21 A. Intel report, yes.
22 Q. Third page, it's another mugshot
23 profile of Nijeer Parks.
24 A. Page 3 is another.
25 Q. I guess this is the fourth page of

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1 A. Yes, I do.
2 Q. What is this document?
3 A. This is an additional criminal
4 history that I conducted on the same date on the
5 subject that I got the hit on. What this does is
6 this provides me a little bit more information
7 before sending it out as a possible suspect. I can
8 gather some more intelligence regarding his past
9 criminal history, if the subject is, indeed,
10 incarcerated or out of prison or in jail, or no
11 longer in existence, I can obtain some more
12 intelligence gathering.
13 Q. In the middle of it, it says, scars,
14 marks, tattoos, what is that -- underneath it says
15 art, RR, what does that mean? Do you see?
16 A. Yes, this is issued by, again, by
17 the arresting agency. Basic pedigree information,
18 we'll ask you for scars, marks, tattoos. You'll
19 note these on your arrest report taken in, so these
20 images, or the document is, which they can be saved
21 and documented and photographed, so that way you'll
22 have future -- in the future, you'll be able to
23 observe these images. For this, it looks like the
24 officer, and again, I can't be 100 percent sure.
25 He wrote, art on right arm, and it could be some

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1 page, actually, one, two, three, four?
2 A. Yes, page 4, it's another mugshot
3 profile image of an arrest.
4 Q. The first mugshot, page 3, what's
5 the date of that picture, does it say on it?
6 A. The arrest date is, is blank. The
7 records-keeping management from the arrest,
8 obviously, there is, there is parts that are not
9 completed, such as AKA, Social Security, phone
10 number, address is blank. Those things are --
11 that's, that's on the police department affecting
12 this arrest and processing the subject.
13 Q. The second mugshot, page 4, that's,
14 the arrest date is February 24, 2011, correct?
15 A. Correct.
16 Q. That's pretty dark, would you agree,
17 the second mugshot?
18 A. I would agree the image is blurry,
19 and it does have a tint of darkness to it. Again,
20 I'm looking at photocopies of the, the image.
21 Q. Okay. The next page, looks to me,
22 is this a one -- yeah, it's a document. At the top
23 it says, FBI state delayed response, in the top
24 left corner, page 1 of 1, additional inquiry
25 response, do you recognize this document?

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1 form of artwork or a tattoo image.
2 Again, I can't answer for what the
3 officer wrote that for. Usually you're a little
4 more descriptive, explaining what the tattoo is.
5 Q. And this would have been -- this
6 would have been sent to Woodbridge, right?
7 A. Yes.
8 Q. Did you notice -- did you note the
9 height and weight of the suspect?
10 A. On the criminal history?
11 Q. Yes.
12 A. I did.
13 Q. Little guy, would you agree?
14 A. He was five seven, 145. I don't
15 know.
16 Q. The next page, one, two, three,
17 four, five, six, sixth page of this, Lyons-1,
18 additional inquiry response, page 1 of 1, top left
19 it says, N.C.I.C. delayed response.
20 A. Correct.
21 Q. What is this?
22 A. Okay. You're looking at my initial
23 inquiry. So, if we could go back to the first
24 page.
25 Q. Sure.

Pages 45 to 48

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1 A. Where you're looking at the name on
2 the subject, Parks, Nijeer, this was page 1, this
3 is sent out.
4 Q. By the first page, you mean the
5 previous page?
6 A. Correct.
7 Q. Okay.
8 A. You're looking at the name and the
9 date of birth, the purpose code C, standing for
10 criminal investigation. Again, basically, when you
11 run the name, or you take a name, you'll either get
12 a hit or no hit. When I say "hit or no hit," there
13 is an assigned FBI number to this criminal history.
14 That FBI number follows this individual, so for
15 more information, you would run this FBI number,
16 and this would provide you the full rap sheet, and
17 when I say the full rap sheet, a complete criminal
18 history on this subject.
19 Q. Where is the FBI number?
20 A. On the first page, if you scroll
21 down to the first sentence, where it says, Parks,
22 Nijeer, over to the right-hand side, inquiry date,
23 1/28/2019, that FBI number.
24 Q. Inquiry date, okay, FBI number. I
25 see, 534795 PCO, do you know what PCO stands for?

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1 criminal history. This is just a basic, additional
2 inquiry response to give the investigator,
3 detective, the law enforcement agency a tool to
4 say, Hey, let me just run this name, date of birth,
5 this FBI number, this name, run it through the FBI,
6 get a full, complete history, and in the State of
7 either New York, New Jersey, or out of state, this
8 will give you every arrest he's been involved in.
9 If you scroll down a little further,
10 back on page 1 of the document, for the additional
11 inquiry response, and you scroll, pretty much all
12 the way to the bottom, and it says New Jersey,
13 there is a state ID number.
14 Q. Um-hm.
15 A. That state ID number is assigned by
16 the State of New Jersey for the subject's arrest.
17 Q. Okay. What's the next page?
18 A. The next page, for the additional?
19 Q. Yes.
20 A. That's just the name, date of birth,
21 that's the end of the return.
22 Q. What is the, No N.C.I.C. protection
23 order file record, what is that?
24 A. So, basically, New York, in the
25 State of New York and the State of New Jersey, if

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1 A. It's just an identifier, P as in
2 Paul, C as in Charles.
3 Q. Off the record.
4 (Discussion held off the record.)
5 Q. All right. So, then, this FBI
6 number, what does that have to do with the next
7 page?
8 A. It ends here. This is where the
9 information provided is up top is my ORI number,
10 New York 043013Y.
11 Q. That's your number?
12 A. That's my ORI, assigned to my intel
13 division in Rockland County. So this is basically,
14 this document is page 1 of 1. Two documents where
15 now, he, an investigator, or detective, or any
16 agency, will now have, to look further into this
17 individual, would run this FBI number and get a
18 complete form of his prior criminal history. And
19 when I say "prior criminal history," you'll have
20 the dates, the times, date of arrest, and in some
21 cases you will obtain another image. Not always,
22 but sometimes.
23 Q. But in this case, there was no such,
24 there were no such records?
25 A. Well, I didn't complete the complete

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1 you run somebody via a criminal history, by name,
2 date of birth, or a registered motor vehicle, or a
3 driver's license ID number, there is a protection
4 order in play that's going to pop up on the screen,
5 or pop up on the criminal history. Even if you run
6 somebody through the police vehicle, say you're
7 just on a traffic stop, you will get notified for
8 the N.C.I.C. information, either there's a
9 stay-away order, order of protection, pretty much,
10 basically, it also checks for if you're wanted, if
11 the subject is wanted, a stay-away.
12 Q. Okay. The next page, after the, in
13 this packet, appears to be a blowup of the
14 fraudulent Tennessee license plate. Would you
15 agree?
16 A. This is a blowup of the Tennessee
17 driver's license.
18 MR. CLEMENTE: For the record, this
19 is page 7 out of 10?
20 MR. SEXTON: Yes.
21 Q. What's that on the forehead of the
22 picture on this blown up license plate?
23 Do you see what I'm talking about?
24 It looks like an ampersand or something, carved
25 into the --

Pages 49 to 52

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1 A. On the Tennessee driver's license?
2 Q. Yeah.
3 A. It could be a blemish. Again, this
4 picture is blurry. It could be a shadow, could be
5 a scar, could be anything.
6 Q. Okay. It looks odd, doesn't it?
7 A. It does look odd.
8 Q. Page 8, what is this?
9 A. This is the image submitted through
10 the facial recognition software, on the left, and
11 that image was searched through, and the probes in
12 the search revealed a result onto your right side
13 of that photo, and that's the image result that we
14 obtained as a possible.
15 Q. Under -- on the right, this is
16 number 594 dash -- point 000, what is that?
17 A. That's, that's part of the threshold
18 in the software that it utilizes when it searches.
19 Q. Okay. How does that -- what does
20 that number indicate?
21 A. It's a probable. It's not a very
22 high number, but it's worth a second look. I've
23 had cases with lower numbers than that.
24 Q. What's, what's this, what is the,
25 what number would you get to indicate the highest

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1 information, some financials, criminal histories
2 attached sometimes, it provides us with some more
3 intel-gathering information that we could utilize
4 in any investigation.
5 In this particular page we have one,
6 two, three, four different names bearing the same
7 name, with the addresses, with different addresses.
8 So again, this is just another learning tool that
9 we use as part of the investigation.
10 Q. Now, you said it was your
11 understanding that an officer had been assaulted.
12 A. Correct.
13 Q. What did you base that upon?
14 A. Basically, on this all-points
15 bulletin, it pretty much states when confronted by
16 patrol officers, he ran into a 2008 Dodge
17 Challenger, and rammed into a patrol officer's
18 marked police vehicle, and nearly struck the
19 officer.
20 Again, I don't know if there is an
21 officer in the car, somebody standing outside the
22 car, so it's my understanding that an officer was
23 injured.
24 Q. If there is nobody in the car, it's
25 not an assault on a police officer, correct?

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1 possible --
2 A. I've had 991 in the past, and I've
3 had as low as four something.
4 Q. So 1,000 is the highest?
5 A. Yes.
6 Q. Next page, page 9, this appears to
7 be the picture for the license, Tennessee license?
8 A. That's correct.
9 Q. And where did this, is this the same
10 picture for the license, or a different picture?
11 A. This is the same picture, it's just
12 enlarged.
13 Q. That thing on the forehead, looks
14 stranger even now, doesn't it?
15 A. Yes.
16 Q. Looks like a tattoo or something,
17 doesn't it?
18 A. I really can't answer.
19 Q. And the last page, what is that?
20 A. This is, these are results of past
21 addresses, basically, all based out of the State of
22 New Jersey. These results are from a Clear report.
23 This is a, this is a software we utilize where we
24 can run a name and date of birth and get, like I
25 stated earlier, we get past addresses, bank

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1 A. It could be an attempt.
2 MR. CLEMENTE: Objection to form.
3 THE WITNESS: It could be an
4 attempted assault on an officer.
5 Q. Your understanding was that there
6 had been an assault?
7 A. Right.
8 Q. And actually, the heading says
9 aggravated assault, it doesn't say, attempted
10 aggravated assault.
11 A. Aggravated assault --
12 MR. CLEMENTE: Objection to form.
13 THE WITNESS: Aggravated assault
14 upon a police officer, attempt to ID.
15 Q. Actually, what is, what are the
16 elements of an aggravated assault on a police
17 officer?
18 A. It could be anything. It could be
19 from a motor vehicle, it could be from a fist, it
20 could be fighting.
21 Q. Okay, but, well, you know, I guess
22 it is what it is in the penal code.
23 Now, the bulletin connects the
24 suspect to New York, does it not?
25 A. It connects the suspect, possibly

Pages 53 to 56

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1 through a receipt that was located in the vehicle.
2 Q. Did you consider that in your, in
3 your investigation?
4 A. Did I consider what?
5 Q. The fact that there was a possible
6 New York connection for the person or suspect?
7 A. Yes, we always do. We always
8 consider every aspect.
9 Q. Let's call this Lyons-2.
10 MR. SEXTON: Garry, this Lyons-2 is
11 Parks, from your production, page 91.
12 (Exhibit Lyons-2, Request for facial
13 recognition photo array, received and marked
14 for identification by the Reporter.)
15 Q. Sir, do you recognize this document,
16 this one-page document?
17 A. I do.
18 Q. What do you recognize it as?
19 A. It's a request for facial
20 recognition or a photo array through the New Jersey
21 intel center.
22 Q. So, did you receive this?
23 A. No, I did not.
24 Q. Okay. So, where is the New Jersey
25 intel?

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1 A. The center?
2 Q. Center, yeah.
3 A. I believe they're located in Newark,
4 New Jersey.
5 Q. Okay. So NJROIC. Does that have
6 any, which is mentioned in the first line, above,
7 does that have any, is that part of your
8 organization?
9 A. They are a separate entity.
10 Q. Okay. All right. I guess this is
11 an online form. I see a box in the top right,
12 says, Reset form.
13 A. Yes.
14 Q. Do you have any similar type of
15 online request for information?
16 A. Not online. It would be noted
17 through the e-mail with the department's case
18 number, which would then be taken from their
19 requests and highlighted and put into our intel
20 report.
21 Q. Okay. Okay, let's mark -- this is a
22 two-page document, Lyons-2.
23 MR. SEXTON: Garry, I'm marking as
24 Lyons-2 -- Lyons-3, a two-page document
25 that's Parks, your production, page 92 and

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1 93.
2 MR. CLEMENTE: Got you.
3 (Exhibit Lyons-3, NYSIC request
4 form, received and marked for identification
5 by the Reporter.)
6 Q. Sir, do you recognize this two-page
7 document?
8 A. Yes, I do.
9 Q. What do you recognize it as?
10 A. This is a New York State Intel
11 Center NYSIC request form through the intelligence
12 center.
13 Q. And so this is, this is, is this a
14 form that your -- the RCIC uses to process cases?
15 A. Yes, it is.
16 Q. Okay. And case number 19010123,
17 whose case number is that? Is that yours or
18 Woodbridge's?
19 A. I believe this case number would be
20 Woodbridge, I'm not sure.
21 Q. And it has checked off, facial
22 recognition assistance requested, correct?
23 A. Yes.
24 Q. And then, case details, it says, see
25 second page. Bottom of this page says, Submit this

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1 form to the NYSIC via e-mail, gives the address or
2 fax. And you, I believe you previously testified
3 you get your receipt by e-mail; is that correct?
4 A. Correct.
5 Q. Now, did you receive this request
6 for, for information after you contacted them, or
7 just at the same time you used -- let me withdraw
8 that.
9 The second page, it has additional
10 information, and, which basically consists of the
11 narrative. Is this the identical narrative that
12 was on the bulletin?
13 A. It is.
14 Q. Not quite. It's missing the last
15 sentence.
16 A. That's the information, pedigree
17 information for the police officer.
18 Q. Have you seen this two-page document
19 before?
20 A. I've seen these documents before,
21 and I've utilized these documents before, yes.
22 Q. Did you see it in this case?
23 A. No, I did not.
24 Q. You testified that you did your
25 investigation as a result of the bulletin?

Pages 57 to 60

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1 A. Correct.
2 Q. Do you know, let me see, does this
3 have a date on it?
4 Do you see any date?
5 A. No. There is no date on this one.
6 Q. And you don't know if you received
7 this?
8 A. I never saw this document, no.
9 Q. Okay. Lyons-4.
10 MR. SEXTON: Garry, this is Parks 30
11 through 33.
12 (Exhibit Lyons-4, Rockland County
13 Intel Center incident report, received and
14 marked for identification by the Reporter.)
15 Q. Sir, do you recognize this document?
16 A. Yes, I do.
17 Q. What do you recognize it as?
18 A. This is my Rockland County Intel
19 Center incident report.
20 Q. And you had previously referred to
21 this report, correct?
22 A. Correct.
23 Q. Okay. When was -- you authored
24 this?
25 A. Yes, I did.

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1 A. The, the final report, this
2 narrative will probably stay the same, with the
3 corrected spelling errors. Underneath that where
4 it says, Closed by investigation, will be all the
5 added subpoenas, et cetera, contacted, and the
6 final, maybe my boss may have added something in
7 there, but everything else has stayed the same.
8 Q. It says, See attached PDF and flyer.
9 Do you see that?
10 A. Correct, in that attached, those
11 attached PDF and flyer are part of this report as
12 enclosures.
13 Q. That would have been Lyons-1,
14 essentially?
15 A. Correct.
16 Q. What's that, Responsible LEO under
17 the narrative? Lead, what is that? It looks like
18 there's three.
19 A. Responsible law enforcement officer.
20 Q. Okay.
21 A. Approval by a supervisor, and then
22 dated.
23 (Discussion held off the record.)
24 Q. So we were -- were you there when I
25 marked Lyons-4?

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1 Q. Okay. And when, when did you create
2 this?
3 A. I would have created this on January
4 28th of 2019. This is a draft.
5 Q. You said because there's no
6 signatures?
7 A. It's a draft. It's not listing the
8 attached files, and I could see that this isn't
9 even the narrative. This was just a brief
10 narrative that was thrown in there the day of, and
11 it wasn't finalized by me. Plus there is two
12 spelling errors. There is more to the narrative --
13 it's a draft, but it's my incident report number
14 bearing number 19RI0076. It is basically the
15 report.
16 Q. Okay. So the final report had no
17 spelling errors?
18 A. Yes, the final report, there is no
19 spelling errors, and there is attachments made, and
20 then the narrative is also all the, the provided
21 paperwork from Woodbridge for the, for the lawsuit.
22 And the subpoenas, et cetera.
23 Q. So, if you were to give me a copy of
24 the final report, you're saying it would note that,
25 the recent subpoenaed documents and stuff?

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1 A. Yes, I was.
2 MR. SEXTON: Okay, so, I was asking
3 about the signatures on the signature lines
4 on the third page, one, two, three, of that
5 document.
6 MR. CLEMENTE: Okay.
7 MR. SEXTON: And the witness was
8 explaining that LEO means law enforcement
9 officer.
10 Q. So, do you know, sir, if these -- if
11 anybody ever signed off on this report?
12 A. No, I do not. We basically are
13 self-approved, our reports. The boss will actually
14 go through them. He'll look through the files for
15 the day, so we pretty much self-approve our
16 reports. If he sees an issue with one, he'll kick
17 it back to us, and then we'll correct that issue.
18 Q. So you routinely send these reports,
19 out without somebody else approving them?
20 A. Correct.
21 MR. CLEMENTE: I'm getting a bad
22 signal here.
23 MR. SEXTON: We can hear you, let me
24 -- I'm going to move the wifi tower even a
25 little closer.

Pages 61 to 64

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1 (Recess taken at 12:36 p.m.)
2 (Proceedings resumed at 12:38 p.m.)
3 Q. All right. So, you said you
4 self-approve reports. Where does that policy come
5 from?
6 A. It's just through our intel center.
7 It's been that way since I've been there.
8 Q. Is it still that way?
9 A. Yes.
10 Q. So, even though the form has a place
11 for, for two signatures, this is not, well, it has,
12 I guess, the investigating officer, responsible
13 LEO?
14 A. Yes, and it has an approval line for
15 a supervising officer. And a date.
16 Q. And a date. But those are not
17 routinely used?
18 A. Nope.
19 Q. Do you know why the form indicates
20 that they are, they are to be used?
21 A. Well, if we're printing out this
22 report, and somebody comes in for the -- for, if
23 they request a report, then it would be signed by
24 me, approved by my member in charge, which would be
25 Detective Lieutenant Ford, dated, and then provided

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1 a.m.
2 Is this -- what's the order of, of
3 -- actually, there's two pages, there is a number
4 of e-mails, and I'm a little confused about the
5 order of e-mails here.
6 A. Okay.
7 Q. Can you take a moment and look at
8 that and describe your understanding of the e-mail
9 exchanges that you had with Tapia?
10 A. Looks like on January 28th, 9:29
11 a.m., I e-mailed the Detective Tapia.
12 Q. So, you initiated the e-mails?
13 A. Yes, his e-mail, I guess, would be
14 on the bulletin.
15 Q. Okay. What time, 9:29?
16 A. Looks like 9:29 a.m.
17 Q. So, those, this e-mail which says,
18 Good news, yes, I used facial recognition.
19 A. Yes.
20 Q. The thing is, to me that sounds like
21 you're responding to something, because --
22 MR. CLEMENTE: If I may, it appears
23 the e-mails go back in time, from most
24 recent to oldest, so I believe that the
25 e-mail chain starts on the second page.

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1 to that person.
2 Rockland County Intel Center, we use
3 a reporting system that is basically other the
4 departments, due to the fact that we're an intel
5 center, these reports are basically partitioned, so
6 the only ones that have access to these are intel
7 investigators.
8 Q. This was provided, though, to
9 Woodbridge without the signatures, correct?
10 A. Correct. Correct.
11 Q. It also provided, I guess, he's
12 actually -- he's part of your group, correct?
13 A. Correct.
14 Q. Okay. I think this is the last
15 exhibit. It would be five.
16 (Exhibit Lyons-5, E-mail chain,
17 received and marked for identification by
18 the Reporter.)
19 MR. SEXTON: Garry, here are Parks
20 -- your production pages 34 and 35.
21 MR. CLEMENTE: Okay.
22 Q. The first page of Lyons-5 is an
23 e-mail from you to Tapia. Do you agree with that?
24 A. Yes.
25 Q. It's dated January 28, 2019 at 9:29

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1 MR. SEXTON: That was my question,
2 all right.
3 Q. So, 8:40 a.m., 1/28/19, see attached
4 PDF, regarding your PD police information. So
5 that's the first one?
6 A. Correct, 8:40 am on the 28th of
7 2019.
8 Q. Okay. So, you say, in your initial
9 e-mail, Good possible hit on facial recognition.
10 A. Yes.
11 Q. See attached PDF. The attached PDF
12 is what's Lyons-1, right?
13 A. Correct.
14 Q. Now, on Lyons-1, is there any
15 disclaimer language in this 10-page document?
16 A. No.
17 Q. Okay. Now, you testified about some
18 disclaimer language that is used now.
19 A. Yes.
20 Q. And that began to be used recently,
21 or when did that begin?
22 A. Last year.
23 Q. Last year. Okay. So, if this were
24 issued today, where would the disclaimer language
25 be, and what would it say?

Pages 65 to 68

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1 A. It would be on all our returns that
2 are sent out, again, via e-mail. It's always on
3 the bottom of the e-mail, where it says, preamble.
4 Q. And is it sent, is it also -- would
5 it also be on the attachments?
6 A. No, it would just be in the e-mail.
7 Q. Just in the e-mail. And do you
8 know, I think you've already testified to it, but
9 could you remind me what the disclaimer language
10 says on the e-mails?
11 A. It says, The attached is, only
12 should be treated as a possible lead. It is up to
13 the arresting agency and police officer to do their
14 due diligence, and provide each and every law
15 enforcement step before affecting a lawful arrest,
16 or taking any legal action. I believe that's the
17 preamble.
18 Q. This is on the top and bottom?
19 A. It's just on the bottom of the
20 e-mail, so once you send a document, it's actually
21 highlighted in red.
22 Q. Okay. Tapia says, That's him, thank
23 you and Sergeant Dey for your help, Tapia.
24 A. Yes.
25 Q. Do you remember receiving that?

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1 A. Yes, I do.
2 Q. And did you have any -- what's your
3 impression of that response?
4 A. That this officer, this detective,
5 made a decision that this was, indeed, the subject
6 he was looking for.
7 Q. Okay, and that's, you sent your
8 e-mail at 8:40, and he responded just over a half
9 hour later?
10 A. Correct.
11 Q. Does -- can due diligence be
12 accomplished in a half hour?
13 A. I can't answer for him.
14 MR. CLEMENTE: Objection, you can
15 answer.
16 THE WITNESS: I can't answer for the
17 detective, but if the officer that was
18 involved was with him at the time, and I
19 identified him, it's possible, but again, I
20 can't, I can't describe his due diligence.
21 Q. How would it be possible?
22 A. If the arresting officer looked at
23 the photos, and said, Agreed, it's possible that's
24 my subject, that's him. Again, I don't know what
25 steps were taken.

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1 Q. But, even -- now, you said you've
2 only had limited training as an investigator, but
3 an identification by an arresting officer of a
4 photo obtained through facial recognition, what
5 kind of weight is that given --
6 MR. CLEMENTE: Objection.
7 Q. -- in your experience?
8 A. My experience, and my past
9 experience is it's a learning tool, it's a stepping
10 stone to go, Hey, let me obtain more images, let me
11 dig a little deeper into the background, there are
12 investigative steps you have to take.
13 In this case, again, I can't
14 describe what Detective Tapia, his steps or
15 investigative skills were in this investigation.
16 Our part kind of ends when --
17 Q. This e-mail from Tapia reads like
18 the investigation is concluded. Quote, "that's
19 him," end quote.
20 A. Again, I can't --
21 MR. CLEMENTE: Objection, calls for
22 speculation.
23 Q. Did you have any concern about that
24 declarative language?
25 A. No.

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1 Q. Why not?
2 A. He was the investigative detective.
3 Again, I don't have all the facts of this case.
4 Again, we're looking at a brief narrative in a
5 police bulletin. There could be other facts of the
6 case. I stated earlier, maybe the officer that was
7 involved was there. Again, I don't know. Like I
8 said, it ends pretty much when we provide you with
9 a possible lead.
10 Q. But even if the arresting officer
11 were there, is it -- can you think of any scenario
12 where an arresting officer from an incident two
13 days prior would be able to ID, and based upon that
14 ID, move forward with a probable cause affidavit
15 and a criminal complaint?
16 MR. CLEMENTE: Objection to form.
17 THE WITNESS: I mean, looking at it
18 you could -- again, I can't answer for what
19 they did, but an officer could observe
20 photographs and say, that definitely, you
21 know, in my opinion, that's the guy, if it
22 was the officer involved, and again, you
23 know, aggravated assault on a police
24 officer, if he tried to drive over him, I
25 mean, you look at the car, there is heavy

Pages 69 to 72

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1 damage there. The cop obviously got a good
2 look at the subject. And he's got a photo
3 of a fraudulent license. Did the officer
4 make a conscious decision and say, This is
5 the subject? Again, I can't answer for that
6 --
7 Q. You would not have had concerns
8 about the presentation of the photo to the officer
9 as being overly suggestive?
10 A. Not really, I really can't answer
11 that.
12 Q. Have you had any training in photo
13 arrays?
14 A. Yes.
15 Q. Okay. And what's your -- what is
16 the science around photo arrays?
17 A. When you say "science," what do you
18 mean?
19 Q. Are, are there certain procedures
20 for doing a photo array so that any identification
21 may be used in prosecution of crimes?
22 A. Yeah, we like to do a photo array.
23 We refer to it as a six-pack. We'll take either
24 six photos that are similar, putting your suspect
25 or subject into this a photo array. We usually do

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1 it in both color and black and white, and we have
2 either the witness or the victim attempt to pick
3 out that subject.
4 Q. And do you know why this procedure
5 is used?
6 A. It's basically for court, court
7 procedures, and identification purposes.
8 Q. And is this to, isn't it true that
9 it's done to give a certain validity to the ID?
10 A. It gives validity, and it gives a
11 positive identification on the subject, yes.
12 Q. Isn't it supposed to lessen the
13 probability of mistaken identifications?
14 A. Yes.
15 Q. And, there are limited circumstances
16 where an ID is made without an array, correct?
17 A. Yes. Correct.
18 Q. Like a show-up, for instance?
19 A. Correct.
20 Q. But an ID by an arresting officer
21 based upon a photo provided by facial recognition
22 doesn't fall into either a photo array or a show-up
23 or any other type of allowable identification
24 process, does it?
25 A. No, it's just, it's a tool to look

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1 further into the investigation.
2 Q. You respond on the first page --
3 A. Yes.
4 Q. -- at 9:17, Excellent, how is the
5 officer, is he okay, so, you remember sending that?
6 A. Yes, I do.
7 Q. Okay. And then his response is,
8 looks like it was about, you wrote at 9:17, he
9 writes back at 9:24, yes, he's fine. He asks, How
10 did you guys ID him? Facial recognition through
11 the NYSIC or the ROIC?
12 A. Correct.
13 Q. Okay. So, now, the term, "ID him,"
14 did you ID him?
15 A. I IDed a possible suspect. He
16 wasn't positively identified, no.
17 Q. But Tapia is saying that you IDed
18 him. Why did you not correct him?
19 A. Because we're going based on a
20 trained detective's experience and training that he
21 -- that this is, in fact, the subject, or his
22 suspect.
23 Q. So, you thought, even though he
24 said, How did you guys ID him, you, you supplied
25 in, like, parentheses, how did you guys provide a

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1 possible, what's the language, a possible suspect?
2 A. Correct.
3 Q. Okay. NYSIC, actually NYSIC and
4 ROIC, are they the same?
5 A. No.
6 Q. What is the NYSIC?
7 A. New York State Identification
8 Center, it's part of the New York State Police,
9 it's actually New York State Information Center, I
10 believe.
11 Q. And the ROIC?
12 A. No, that's New Jersey, that's the
13 New Jersey intel center.
14 Q. Oh, New Jersey intel. Okay. So you
15 used the NYSIC?
16 A. We use NYSIC, but we also have
17 access to facial recognition. It's the same
18 software that they utilize.
19 Q. Now, you say back, on 9/29, Good
20 news, and I think you're referring to the fact that
21 the officer is not injured. Yes, I used facial
22 recognition software, but altered the photo and the
23 license a little to get the pixels clearer.
24 A. Correct.
25 Q. Okay. What -- explain that, please.

Pages 73 to 76

Page 77

1 A. It's pretty much just taking the
2 photo and shrinking it down, and then submitting it
3 through the software.
4 Q. How do you do that?
5 A. It is basically like any photo.
6 Once you take the photo image, if you expand it,
7 the blurrier it gets. The more you crop it in, the
8 pixels become more visual, and it's submitted
9 through the software, and gets a better read.
10 Q. On the software, are there, you
11 know, like, how on your phone, your iPhone, you can
12 take pictures and you can alter the photo by, in
13 different ways?
14 A. Yes.
15 Q. So, is it, is it that type of thing?
16 A. No, it's just basically shrinking,
17 it's the size of the photo like on the first
18 original document. You have the photo enlarged
19 here. That photo we could never submit through, so
20 we just shrank the image down. In this case we
21 just took the image off that fraudulent license and
22 submitted it.
23 Q. Why did you say "altered," and not
24 "shrunk"?
25 A. Just a choice of words.

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1 Q. When you, when you alter a photo in
2 this way, does that have any effect on the validity
3 of any image?
4 A. No, it doesn't.
5 Q. All right. Now, you said you got a
6 high number hit?
7 A. Um-hm.
8 Q. But the number was 540 or something
9 like that.
10 A. 594, I believe.
11 Q. 594. And you conceded that was a
12 low number hit?
13 A. It's not the highest hit, but it's
14 definitely worth a second look.
15 Q. "Definitely worth a second look"
16 sounds very different to me from "a high number
17 hit."
18 A. In what sense?
19 Q. "High number hit" sounds like you
20 were hitting a 999 or something, 950.
21 A. Right. That's a very high hit.
22 Q. 540, 594.
23 Then you say, He is a Paterson, New
24 Jersey guy. That's also declarative. Now, you
25 seem to be adopting Tapia's tone that this

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1 investigation is completed.
2 A. Well, not that it's completed, but
3 there are connections between Woodbridge, a
4 connection with a possible lead, and a suspect, and
5 the Paterson, New Jersey address, so there are
6 connections to the State of New Jersey.
7 Q. Did you raise to him, to Tapia, in
8 any way that this is only to be used as a lead?
9 A. Yes, it's the understanding that you
10 just don't go out and arrest somebody based on
11 facial rec.
12 Q. But did you express that in your
13 communications anywhere?
14 A. No.
15 Q. Did you caution Tapia in any way
16 that you -- that you connected this man to
17 Paterson, New Jersey, and not to New York, as
18 contrary to the original bulletin?
19 A. No, just the documents that were
20 provided to him.
21 Q. I'm close to wrapping up.
22 Have you read anything, are you
23 aware of the criticisms of facial recognition
24 technology, any criticisms of it?
25 A. In what, in what sense?

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1 Q. In any sense.
2 A. In my personal opinion, or just in
3 general?
4 Q. Any sense. Personal, professional?
5 A. I'm aware of, it's criticized by the
6 public.
7 Q. And do you know what the basis of
8 the criticisms are?
9 A. Basically, race, color and creed,
10 and that it manipulates the race of the person.
11 Q. So have you heard that some of the,
12 I guess, I never did very well in algebra, but
13 everything is algorithm driven. Have you heard the
14 criticism that facial recognition technologies have
15 algorithms that result in false matches for blacks?
16 A. I'm not aware of that.
17 Q. So, what are you aware of?
18 A. Just, that people are cautious, and
19 people are against it. I mean, there are many,
20 there are many different applications for facial
21 recognition. I mean, just not only what we
22 utilize, but out there, there are many companies
23 that are applying for facial rec technology, so I
24 know it's big right now. It's a big issue.
25 Q. Madison Square Garden, right?

Pages 77 to 80

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1 A. Madison Square Garden being one of
2 them.
3 Q. So, you said you talked to, I think
4 it was Lieutenant Ford?
5 A. My lieutenant?
6 Q. Yes.
7 A. Yes.
8 Q. About this. Are you aware of,
9 you're not aware of any of the other, what's come
10 out in this case at all?
11 A. No, I'm not.
12 Q. So -- so, it's uncontroverted that
13 this was a false match, and that the lead was of a
14 person who had never been to Woodbridge, who had
15 nothing to do with the event, and this had been
16 borne out by D.N.A., fingerprints, and other
17 biometrics, knowing that, do you have any thoughts
18 about how your investigation could have been done
19 differently?
20 MR. CLEMENTE: Objection to form,
21 calls for speculation.
22 THE WITNESS: You want me to answer
23 that?
24 Q. Yes.
25 A. No, my investigation pretty much

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1 ends when we give you, when we give any law
2 enforcement agency a lead. It's not like we do the
3 complete investigation, or do another agency's job
4 to do their due diligence, so, we provide you with
5 a plausible or possible suspect, you look into the
6 suspect. That department, that agency, makes the
7 determination, Hey, it either is my guy or it's not
8 my guy. There has been no further contact with
9 this agency, after the fact that we provided a
10 possible suspect.
11 Q. Are you aware of criticism of facial
12 recognition technology made by the Attorney General
13 of New Jersey?
14 A. No, I'm not.
15 Q. Are you aware that certain facial
16 recognition has been outlawed in New Jersey?
17 A. I've heard that, yes.
18 Q. Where did you hear that?
19 A. Through social media.
20 Q. Facebook?
21 A. Correct.
22 Q. Do you know, what's going on in New
23 York? Has the AG weighed in on it?
24 A. It's still, it's still in the
25 courts. They haven't made a final determination

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1 yet. It's limited. I know facial rec is limited
2 to intel centers, police departments, there is only
3 a certain number of individuals that have access to
4 facial rec.
5 Q. You know, I didn't get -- what's
6 your, just some background, what is your highest
7 level of education?
8 A. I have an associate's degree in
9 criminal justice from Rockland Community College.
10 Q. What year was that?
11 A. '95, I believe, and I graduated
12 three police academies in the State of New York.
13 Q. Great.
14 MR. SEXTON: Garry, do you have any
15 questions, and I'll try to think if I have
16 any --
17 MR. CLEMENTE: Yeah, do you mind if
18 I take five minutes to run to the bathroom?
19 MR. SEXTON: That's fine.
20 (Recess taken at 1:05 p.m.)
21 (Proceedings resumed at 1:14 p.m.)
22
23 CROSS EXAMINATION BY MR. CLEMENTE:
24 Q. Good afternoon, Investigator Lyons,
25 my name is Garry Clemente. I'm representing the

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1 Township of Woodbridge in this matter. I just have
2 a couple of follow-up questions for you.
3 A. Sure.
4 Q. Earlier, you were explaining how,
5 the software that the ROIC utilizes, and I just
6 wanted to clarify that. Now, you said that there
7 was the high -- the HIDTA, what was that acronym
8 again?
9 A. HIDTA.
10 Q. High-density drug trafficking area?
11 A. Correct.
12 Q. Is that a software, or is that a
13 program that's underneath the eJustice?
14 A. It's a part of the program
15 underneath the eJustice. They're one system, but
16 you log on, and then you become part of HIDTA, so
17 it's a drop-down window. You have to attempt to
18 log on to that to run facial rec, and you have to
19 have access to do that.
20 Q. And this -- the eJustice program,
21 that's provided through the New York State Division
22 of Criminal Justice?
23 A. Correct, through the New York State
24 Police in Albany, correct.
25 Q. And you don't have any understanding

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1 of what the name of the software is, or what the
2 company is that provides the facial recognition
3 technology?
4 A. No, I do not.
5 Q. Investigator Lyons, would you agree
6 with me that utilizing facial recognition is an
7 investigative tool, correct?
8 A. Yes, it is.
9 Q. And there needs to be other steps
10 that need to be taken in an investigation to follow
11 up on that, the results of the facial recognition,
12 correct?
13 MR. SEXTON: Objection to form.
14 THE WITNESS: Absolutely.
15 Q. Investigator Lyons, if the officer
16 who dealt with the suspect who was identified
17 through facial recognition software, he came in, he
18 compared the photos and said, That's the individual
19 that I dealt with, would you agree with me that
20 that's a proper investigative step to follow up on
21 that lead?
22 A. Yes, it is.
23 MR. SEXTON: Objection to form.
24 Q. Investigator Lyons, you testified
25 earlier that you've been successful in utilizing

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1 a hub, NYSIC being the base for all facial rec and
2 all other intel centers, so, NYSIC is pretty much,
3 if, if you could compare it to the mother station,
4 and then we are all just satellites spread out
5 through the State of New York, just like New
6 Jersey.
7 Q. Is it fair to say that these various
8 entities go to the RCIC because the services you
9 provide are reliable and accurate?
10 A. Yes.
11 MR. SEXTON: Objection to form.
12 Q. Investigator Lyons, did you know
13 Detective Tapia prior to him submitting his request
14 for you to perform facial recognition analysis?
15 A. No, I did not, sir.
16 Q. Did you know any police officer with
17 the Woodbridge Police Department at the time that
18 this initial request was submitted?
19 A. No, I did not.
20 Q. Did you stay in contact with anybody
21 at the Woodbridge Police Department since your
22 investigation into this matter?
23 A. No, I had not.
24 Q. You described that you received
25 training in regards to utilizing facial recognition

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1 facial recognition in the past. Can you elaborate
2 on that for me?
3 A. Yes, I've been continuing using the
4 software, and basically, my investigative skills
5 and my unit at the intel center, I utilize facial
6 rec for outside agencies all the time. And, pretty
7 much on a daily basis. We've had an extreme
8 success rate with it. It's a valuable tool, and a
9 learning step to move forward in any investigation,
10 in identifying either a suspect or a subject
11 through any criminal or noncriminal investigation.
12 Q. You said that you get requests for
13 facial recognition daily. Does that come from
14 local police departments, state police departments,
15 Federal law enforcement agencies, or all of the
16 above?
17 A. It would be all of the above.
18 Q. And why, why would those various
19 entities go to the RCIC for this kind of resource?
20 A. We are an intel center based in
21 Rockland County, New York. We're 20 miles north of
22 New York City. Basically, we're our first stepping
23 stone to move forward to the next intel center,
24 which would be up in another county, such as Orange
25 County or Westchester County, so we're pretty much

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1 software. As part of that training, did you
2 receive any instruction on how to submit the photos
3 to be analyzed?
4 A. Yes.
5 Q. Let me just clarify that. Did they
6 tell you there are any steps you need to take to
7 make sure the photograph is suitable for a
8 comparison?
9 A. No, basically, you can take any
10 photo, be it blurry, a poor quality, you're going
11 to submit that photo. You'll let the instrument or
12 the device or the software make that decision if
13 it's readable, if it's nonreadable, if you get no
14 returns back on it. When I say "alter a photo,"
15 like I stated earlier, it's just shrinking the
16 photo down to fit into the criteria. You don't
17 want to submit this huge photo that takes up the
18 whole screen where it's unable to search.
19 Q. I believe you testified earlier that
20 the act of shrinking down the photo prior to
21 submitting it that has no effect on the validity of
22 the facial recognition results?
23 A. No, it doesn't.
24 Q. How often, in your experience, when
25 you're utilizing facial recognition, do you have to

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1 shrink a photo in order to, before you submit it?
2 A. Quite often. I mean, there are
3 times when you're provided a photo, it may not just
4 be one subject in that photo, where they're
5 attempting to ID, for example, I'll use an example,
6 like if you're provided a photo with three
7 individuals, and one is shooting the gun, and the
8 only one they're trying to identify is the man with
9 the gun, is you have to shrink that photo down and
10 get the other two people out of the photo, so
11 you're only focusing on one face and one photo.
12 Q. Investigator Lyons, when you
13 submitted the photograph of the suspect on the
14 Tennessee driver's license, and you received the
15 results that was a mugshot photo of Nijeer Parks,
16 what was your first reaction when you saw the
17 photograph?
18 A. My, my initial reaction was like,
19 there was resemblance, the eyes and ears, there was
20 a match. I then clarified that with Lieutenant
21 Rich Dey, and we were in agreement that there were
22 definitely similarities that had to be looked at
23 further that we provided to Detective Tapia.
24 Q. So, through your investigation, and
25 your, I guess, corroboration with Sergeant Dey,

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1 nothing in any of these documents that suggest that
2 you did that?
3 A. No. This would just be a verbal
4 conversation between myself and Lieutenant Dey.
5 Q. Currently, in the process, is there,
6 are you required to document when you get a peer
7 review of an impression of a result?
8 A. When you say "document" --
9 Q. Are you supposed to note who, who
10 you -- if you did it, and with whom you did it?
11 A. Well, my name, or the individual
12 that runs the photo or does the facial rec, his
13 name is going to be attached to that report and
14 that photo, so, basically, no, it's just the
15 investigator that's handling the case.
16 Q. Currently, so you don't --
17 A. Yes.
18 Q. So if this one comes in tomorrow, do
19 you need to run that by somebody else, or can you,
20 can you --
21 A. No, you can do it yourself.
22 Q. There is no need for peer, like,
23 collaboration or corroboration?
24 A. Right. It's part of the process,
25 you want a second opinion.

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1 that was enough for you to say that this is worth
2 sending to Woodbridge to follow up on, correct?
3 A. Yes, it is.
4 Q. And I had indicated to you earlier
5 that if Woodbridge, following up on that, were to
6 have the officer directly interacting with the
7 suspect and take a look at the photograph, and if
8 that officer was able to confirm that that was the
9 person that he dealt with, that that would be
10 sufficient follow-up investigation?
11 A. Yes, it would be.
12 MR. CLEMENTE: Dan, I don't have any
13 further questions. Thank you, Investigator
14 Lyons.
15 THE WITNESS: Thank you, Counselor.
16
17 REDIRECT EXAMINATION BY MR. SEXTON:
18 Q. Just a few based on that.
19 So in your report, you don't mention
20 running this by Dey before sending it on to
21 Woodbridge, do you?
22 A. No, it's, it's a mutual agreement,
23 where we discuss it, we like to get a second
24 opinion, and basically, we do that all the time.
25 Q. But there is nothing in -- there is

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1 Q. But it's not --
2 A. It's not necessary.
3 Q. Now, you agree, right, there is no
4 funny mark on Nijeer Parks' forehead, like there is
5 on the Tennessee driver's license photo?
6 A. I can't say what that mark is. I
7 can't tell you if that mark is a blemish from the
8 fake identification on the Tennessee license, or if
9 it's a scratch on the license itself, or if it's on
10 the subject itself.
11 Q. Okay. But you would agree it's not
12 on Nijeer Parks?
13 A. Yes.
14 Q. If that's a tattoo on his forehead,
15 that would be a quite startling difference in the
16 face, would it not?
17 A. A tattoo on the forehead?
18 Q. Yes.
19 A. Yes.
20 Q. Now, you said that you never, you
21 don't act as a gatekeeper for using any photo for
22 one of these inquiries. You'll put anything in,
23 and then the software will decide whether or not
24 it's usable?
25 A. Correct.

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1 Q. And what do you base that practice
2 on?
3 A. Past experience, and the
4 characteristics that the software utilizes. It
5 will either deny it, or you'll get no results from
6 the photo.
7 Q. So you've never been told that
8 certain photos are not suitable for this, these, or
9 images are not suitable for submission?
10 A. No.
11 Q. I think I mentioned this. Why did
12 you use the word "altered"? "I altered pixels,"
13 what's a pixel?
14 A. It's the clarity of the photo.
15 Obviously, that license photo, and again, we're
16 looking at photocopies. The image that was cropped
17 and shrunk down, the more you expand it, the pixels
18 become -- agitated, and the image will get blurred.
19 You shrink it down to a smaller quality and submit
20 the image through the software.
21 Q. Is there a --
22 A. Technically, if you're asking me
23 about altering a photo, I shrunk it down.
24 Q. And is there any way in the software
25 to alter the photo in other ways? For instance,

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1 Q. Okay.
2 A. So those attached documents are the
3 exact documents that we're looking through here.
4 Q. Okay.
5 A. So if you want those, too, they
6 could be e-mailed to you as well.
7 Q. Okay. Yeah, that would be great.
8 If you could do that, sir, I would really
9 appreciate it. And other than that, is there any
10 other document that might be in your file that we
11 don't have here?
12 A. Nothing, there is nothing in the
13 case report.
14 Q. And no other e-mails?
15 A. No other e-mails.
16 Q. Okay. All right. Well, thank you
17 again for, for your time. I appreciate it very
18 much.
19 MR. CLEMENTE: I just have one or
20 two follow-ups.
21 MR. SEXTON: Okay.
22
23 RECROSS-EXAMINATION BY MR. CLEMENTE:
24 Q. Investigator Lyons, in your 27 years
25 of law enforcement, have you come across your fair

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1 could you ask the software to remove facial hair?
2 A. No.
3 Q. Or remove a tattoo?
4 A. No.
5 Q. Or change an eye color?
6 A. No.
7 Q. Are you aware of any facial
8 recognition software that allows the search, search
9 to be done in that fashion?
10 A. Not through facial rec, but there
11 are ways to search through eJustice portals for a
12 suspect. If you don't have a name, you could put a
13 possible age, height, weight, ethnicity, and do a
14 group search and get thousands and thousands of
15 returns.
16 Q. The documents that were marked here,
17 Lyons-1 through 5, were there any other documents
18 that were relevant -- I think you said that we
19 don't have the final report.
20 A. No, I actually have the final
21 report. I could e-mail it, or e-mail it to
22 Counsel, and just, it is the final report.
23 Q. Okay.
24 A. In that report, noted, it's going to
25 state the same thing. The attached documents.

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1 share of driver's licenses?
2 A. Yes, I have.
3 Q. From all different states across the
4 country, correct?
5 A. All of the United States.
6 Q. In your experience, do driver's
7 license have security features on them to make them
8 more difficult to forge?
9 A. Yes, they do.
10 Q. Can you describe to me what some of
11 those security features might entail?
12 A. Some of them have an image on the
13 front of the document itself, or on the rear of the
14 document. There'll be a client ID number on the
15 side of an ID, with a letter on it. That letter
16 will coincide with the Department of Motor Vehicles
17 from that state. There is usually a hologram
18 imposed onto the license itself. There is many,
19 there is many ways to look at a fraudulent
20 document. In the course of my 27 years, I must
21 have seen thousands of them. We actually were
22 teaching a class in the academy where we showed
23 people how to understand and read fraudulent
24 documents.
25 Q. Investigator Lyons, earlier counsel

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1 indicated to you that there is some kind of mark on
2 the driver's license, on the suspect's forehead.
3 In your opinion, what do, what do you believe that
4 mark to be?
5 A. That mark could be anything. Like I
6 stated, it could be a blemish, it could be a scrape
7 on the license from being in his wallet, it could
8 be there on purpose, it could be there, you know,
9 by accident. The smaller image to the right
10 doesn't seem to have that mark, from what I can
11 see, through the naked eye, but again, that mark
12 could be anything.
13 Q. If you believe that marking on the
14 suspect's driver's license to be a forehead tattoo,
15 and then you received the results that identified
16 Nijeer Parks, who clearly doesn't have a forehead
17 tattoo, that would have raised a red flag for you,
18 correct?
19 A. Absolutely. We probably would have
20 eliminated him as a possible lead.
21 Q. Thank you, Investigator Lyons. I
22 don't have anymore questions.
23 A. Thank you.
24 MR. SEXTON: Thank you, sir.
25 THE WITNESS: Thank you, sir.

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1 MR. CLEMENTE: Thank you.
2 For the court reporter, I would like
3 to order a copy of the transcript.
4 (Witness excused at 1:31 p.m.)
5
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1 CERTIFICATE
2
3 I, BARBARA DELACRUZ, License No.
4 XI01772, a Certified Court Reporter of the State of
5 New Jersey, do hereby certify that prior to the
6 commencement of the examination the witness was
7 duly sworn by me.
8
9 I DO FURTHER CERTIFY that the foregoing
10 is a true and accurate transcript of the testimony
11 as taken stenographically by and before me at the
12 time, place and on the date hereinbefore set forth,
13 to the best of my ability.
14
15 I DO FURTHER CERTIFY that I am neither
16 a relative nor employee nor attorney nor counsel of
17 any of the parties to this action, and that I am
18 neither a relative nor employee of such attorney or
19 counsel, and that I am not financially interested
20 in the action.
21
22
23 BARBARA DELACRUZ, C.C.R.
24 License No. XI01772
25

Pages 97 to 99

EXHIBIT “J”

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL ACTION NO. 2:21-cv-04021

NIJEER PARKS,

Plaintiff,

-vs-

CIVIL ACTION

DEPOSITION OF:

NIJEER PARKS

JOHN E. McCORMACK, MAYOR OF
WOODBIDGE, In his personal and
official capacity, ROBERT HUBNER,
DIRECTOR OF THE WOODBRIDGE POLICE
In his personal and official
capacity, CITY OF WOODBRIDGE
POLICE OFFICERS, ANDREW LYSZK
and WOODBRIDGE POLICE SGT. JOSEPH
LICCIARDI, WOODBRIDGE POLICE
OFFICERS JOHN AND JANE DOE 1-20,
being as yet unknown actors,
MIDDLESEX DEPARTMENT OF CORRECTIONS,
JOHN AND JANE DOES 1-20, being
unknown actors, MIDDLESEX COUNTY
PROSECUTOR, ACTING PROSECUTOR
CHRISTOPHER KUBERIET, in his
personal and official capacity,
and ASSISTANT MIDDLESEX COUNTY
PROSECUTOR PETER NATASI, and
IDEMIA INC.'S being the maker
of the facial recognition
software and ABC CORPORATION,
being an as yet unknown seller
or servicer of the facial
recognition programs,

Defendants.

T R A N S C R I P T of the stenographic
notes of the proceedings in the above-entitled matter,
as taken by and before MARYANN C. MEISTER, a Certified
Shorthand Reporter of the State of New Jersey, License
No. XI00901, at the offices of DANIEL W. SEXTON,
ESQUIRE LLC, 229 New Centre Road, Hillsborough, New
Jersey on Thursday, June 30, 2022, commencing at 11:24
in the afternoon.

VITALE REPORTING SERVICE
P.O. Box 369
Manasquan, NJ 08736
(732) 223-1263

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1 Appearance of:

2 DANIEL W. SEXTON, ESQUIRE, LLC
3 Attorney for Plaintiff
4 219 New Centre Road
5 Hillsborough, New Jersey 07034
6 By: DANIEL W. SEXTON, ESQUIRE
7 DanielSextonEsq@gmail.com

8 JAMES P. NOLAN & ASSOCIATES, LLC
9 Attorneys for Defendant McCormac, Hubner,
10 Township of Woodbridge, Lysak and Liodardi
11 61 Green Street
12 Woodbridge, New Jersey 07095
13 By: FREDERICK RUBENSTEIN, ESQUIRE
14 FRubenstein@jplaw.us

15 DYORAK & ASSOCIATES, LLC
16 Attorneys for Defendant Middlesex Department
17 of Corrections
18 467 Middlesex Avenue
19 Metuchen, New Jersey 08840
20 By: LORE A. DYORAK, ESQUIRE
21 LDyorak@vitallegal.com

22 NEW JERSEY OFFICE OF THE ATTORNEY GENERAL
23 DIVISION OF LAW
24 Attorneys for Defendants Kuberiet and Natasia
25 25 Market Street
26 P.O. Box 116
27 Trenton, New Jersey 08625
28 By: PHOENIX D. MEYERS, ESQUIRE
29 Phoenix.Meyers@law.njag.gov

30 Also present:

31 William Menzel

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1 NIJEER PARKS,

2 311 9th Avenue, Apartment 3, Paterson, New
3 Jersey,

4 Having been duly sworn and testifies as follows:

5 DIRECT EXAMINATION BY MR. RUBENSTEIN:

6 (Complaint marked Exhibit P-1 for
7 Identification.)

8 Q Mr. Parks, good morning.

9 A Good morning.

10 Q My name is Fred Rubenstein and I
11 represent the interests of the Woodbridge
12 Township defendants in a lawsuit that you have
13 brought as a result of an incident that occurred
14 on January 26th of 2019. We're here today for
15 your deposition which is just a fancy way of
16 saying it's a question-and-answer session between
17 you and I and the other lawyers. Throughout the
18 day we're going to ask you questions and we're
19 going to expect that you're going to give us
20 answers that are truthful to the best of your
21 knowledge, okay?

22 A Yes.

23 Q So there are some instructions that I
24 want to give you for purposes of making this
25 process move along smoothly and hopefully we'll

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(Exhibits retained by counsel.)

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1 get done today.

2 First and foremost, let me ask my question
3 in full without interruption and I'll give you
4 the same courtesy. Now, we're bound to talk over
5 each other at some point during the deposition
6 and that's understandable, but we need to try to
7 prevent that as much as possible because the
8 court reporter who's sitting to your left is
9 taking everything down and it's going to be in a
10 booklet form when we finish here today and she
11 can't take down when people talk at the same
12 time. It makes for a messy transcript, all
13 right?

14 A No problem.

15 Q My other -- the next instruction is
16 please keep all of your responses verbal.
17 Although the court reporter is capable of
18 understanding if you gave me a hand gesture or a
19 head movement, she's not in a position where
20 she's allowed to interpret what you are trying to
21 say, so keep all your responses verbal as best
22 you can.

23 A Okay.

24 Q Also, as the court reporter has asked,
25 please keep your voice up. I'm not yelling or

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<p style="text-align: right;">6</p> <p>1 anything like that, but just try to keep your 2 voice up so that everyone can hear your responses 3 and you're not going to be asked repeatedly or 4 have to repeat your response. A No problem. 6 Q Although we're in an informal setting 7 in the conference room in your attorney's office, 8 the testimony here today has the same force and 9 effect as if you were sitting before a judge and 10 a jury. Do you understand that? 11 A Yes. 12 Q If your attorney or anyone else places 13 an objection to one of my questions throughout 14 the day, and it's certainly possible, please 15 cease stating an answer and then your attorney 16 will state his objection and then we'll continue 17 with your response if you're permitted, okay? 18 A Okay. 19 Q I don't want you to guess at anything. 20 If you don't know an answer, that's perfectly 21 acceptable. If you don't know, you don't 22 remember, all perfectly fine, but the last thing 23 any of us wants you to do here today is guess. 24 A Okay. 25 Q If you need to take a break for any VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">8</p> <p>1 Q So you were not -- is it safe to say 2 you were not living there when this incident 3 occurred in '19? 4 A No, no. 5 Q So -- and you were living there about 6 two years. Where did you live before that? 7 A I was living 485 East 19th Street with 8 my grandmother and I was taking care of my 9 grandmother maybe four days a week and I was 10 living with my ex-fiancee. We had an apartment 11 together but I was mostly like kind of at my 12 grandma's house. She had brain cancer so she was 13 like on her last year and I was like the main 14 person taking care of her. 15 Q And the current address that you're 16 at, do you live there with anyone? 17 A Me and my kids. 18 Q How many children do you have? 19 A Two. 20 Q And their respective ages? 21 A 13 and 11. 22 Q And what is your social security 23 number? And we can just take the last three. 24 A Xxx-xx-0832. 25 Q And your date of birth? VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">7</p> <p>1 reason, you're welcome to do so. It's your 2 deposition. You take as many breaks as you need. 3 However, the only caveat is if there is a 4 question pending before you by any of the 5 attorneys, please answer that question and then 6 we'll take a break for as long as needed, okay? 7 A No problem. 8 Q Do you need an opportunity to speak to 9 Mr. Sexton before we begin here today? 10 A I was asking him did he have anything 11 he needed to speak to me about. 12 MR. SEXTON: No. 13 Q Because once we begin here, you can't 14 look to Mr. Sexton for any help. That's why I'm 15 asking. If you want an opportunity to ask him 16 any last-minute questions, I'll be happy to give 17 it to you before we begin. 18 A I'm okay. 19 Q So I want to get some background 20 information. Mr. Parks, what is your address? 21 A 311 9th Avenue, Paterson, New Jersey, Apartment 3. 23 Q And how long have you resided at that 24 address? 25 A Almost two years. VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">9</p> <p>1 A 9/11/1987. 2 Q Are you currently employed? 3 A Yes. 4 Q And who are you employed with? 5 A Touch of Class Fine Touch and 6 Finishing. 7 Q And what's your position there? 8 A I do a lot of different things. We 9 make kitchen cabinets, we paint, we install them, 10 so I do a little bit of everything. 11 Q And how long have you held that 12 position? 13 A Two years. 14 Q Is it safe to say you didn't have that 15 position when this incident happened in January 16 of 2019? 17 A Yes. 18 Q What job did you hold before that? 19 A I was working at Price Rite. 20 Q And where is that located? 21 A In Paterson, New Jersey. 22 Q And what did you do there, what was 23 your title? 24 A I was assistant manager for the 25 produce department. VITALE REPORTING SERVICE (732) 223-1263</p>

<p style="text-align: right;">10</p> <p>1 Q And how long did you work there?</p> <p>2 A For almost four years.</p> <p>3 Q Were you working at that job when this</p> <p>4 incident occurred in January of -- January 26th</p> <p>-- I think I might have been saying 25th -- 2019?</p> <p>6 A Yes.</p> <p>7 Q And did you graduate from high school?</p> <p>8 A Yes.</p> <p>9 Q Where did you graduate from?</p> <p>10 A I graduated from William Allen High</p> <p>11 School in Allentown, Pennsylvania.</p> <p>12 Q In what year?</p> <p>13 A 2006.</p> <p>14 Q Did you take any college courses or</p> <p>15 anything like that?</p> <p>16 A I was supposed to go to George</p> <p>17 Washington in Maryland on a partial football</p> <p>18 scholarship, but all the paperwork -- kind of got</p> <p>19 a new coach during the middle of the summer and I</p> <p>20 wasn't on his list for the kids that he wanted to</p> <p>21 bring in so I never went.</p> <p>22 Q Did you attend any higher education</p> <p>23 facility?</p> <p>24 A After that, no. I worked for the</p> <p>25 summer there for some summer classes and then</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">12</p> <p>1 A Paterson, New Jersey.</p> <p>2 Q The possession of CDS in roughly 2006,</p> <p>3 2007 out of Paterson, New Jersey, did you plead</p> <p>4 guilty, were you convicted of it?</p> <p>5 A I pled guilty. I got probation.</p> <p>6 Q So you never served any term of</p> <p>7 incarceration for the 2006 or 2007 CDS?</p> <p>8 A Maybe a couple of days where I was</p> <p>9 waiting to get bailed out.</p> <p>10 Q What is the next time that you recall</p> <p>11 having been arrested?</p> <p>12 A 2008.</p> <p>13 Q And what were you arrested for?</p> <p>14 A Possession of CDS with intent to</p> <p>15 distribute.</p> <p>16 Q What town was that?</p> <p>17 A Paterson.</p> <p>18 Q And what was the end result of that</p> <p>19 arrest and charges?</p> <p>20 A I went to prison for three years, I</p> <p>21 did 18 months.</p> <p>22 Q And were you actually in prison for</p> <p>23 approximately three years and ten months?</p> <p>24 A I was in prison for 18 months. I was</p> <p>25 sentenced to three years with 18 months</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">11</p> <p>1 they got a new coach and I never went back.</p> <p>2 Q In terms of -- besides this incident</p> <p>3 on January 26th, I'm asking you if you've ever</p> <p>4 been arrested before for any reason.</p> <p>5 A Yes.</p> <p>6 Q Let's, as best we can, start with the</p> <p>7 first time you were arrested, if there's more</p> <p>8 than one. And, again, excluding January 26th.</p> <p>9 MR. SEXTON: Just objection to the</p> <p>10 relevance but you can answer these</p> <p>11 questions.</p> <p>12 A No problem. I was arrested in --</p> <p>13 numerous times. I've been arrested, I've been in</p> <p>14 prison two to three -- two times, I've been in</p> <p>15 county --</p> <p>16 MR. SEXTON: Answer the question.</p> <p>17 A -- a couple of times so I can't</p> <p>18 remember the exact first dates.</p> <p>19 Q Forget dates. Why don't you start</p> <p>20 with, as best as you can remember, the first time</p> <p>21 you were ever arrested.</p> <p>A It would be 2006 or '7.</p> <p>Q And what were you arrested for?</p> <p>24 A Possession of CDS.</p> <p>25 Q And out of where were you arrested?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">13</p> <p>1 eligibility for parole.</p> <p>2 Q So after approximately 18 months, you</p> <p>3 were released from jail.</p> <p>4 A Yes.</p> <p>5 Q And the next time, if there was a next</p> <p>6 time, you were arrested?</p> <p>7 A 2010 or '11.</p> <p>8 Q And for what was the alleged</p> <p>9 violation?</p> <p>10 A Same thing.</p> <p>11 Q And out of what town?</p> <p>12 A Probation. Paterson.</p> <p>13 Q And what was the disposition of that?</p> <p>14 A Probation. 2012 --</p> <p>15 MR. SEXTON: Is there a question?</p> <p>16 MR. RUBENSTEIN: Well, it was --</p> <p>17 MR. SEXTON: Okay.</p> <p>18 MR. RUBENSTEIN: I understand what</p> <p>19 you're doing. I appreciate it.</p> <p>20 Q Because I'm asking you just to tell me</p> <p>21 all of them but I'll ask the questions so that</p> <p>22 it's clear.</p> <p>23 After the 2010, 2011 arrest when you were</p> <p>24 convicted and you were given probation, what was</p> <p>25 the next time you were arrested?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

<p style="text-align: right;">14</p> <p>1 A 2012.</p> <p>2 Q Out of?</p> <p>3 A Paterson, possession of CDS with</p> <p>4 intent to distribute.</p> <p> Q Out of Paterson.</p> <p>6 A Yes.</p> <p>7 Q And what was the disposition?</p> <p>8 A I was sentenced to six years. I did</p> <p>9 39 months.</p> <p>10 Q I'm sorry. Six years was your</p> <p>11 sentence?</p> <p>12 A I was sentenced to six years. I had a</p> <p>13 three-year eligibility for parole and I did 39,</p> <p>14 maybe 40, months before I was released in 2016.</p> <p>15 Q So you were sentenced to six years,</p> <p>16 you were given -- you were eligible for parole in</p> <p>17 about 39 months?</p> <p>18 A In three years I was eligible for</p> <p>19 parole.</p> <p>20 Q I'm sorry, and you --</p> <p>21 A I was released in about 39, 40 months.</p> <p>22 MR. SEXTON: You can't talk over him</p> <p>23 because the reporter can only take one</p> <p>24 person's words down at one time.</p> <p>25 Q Again, besides the 2019 arrest,</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">16</p> <p>1 A No.</p> <p>2 Q Might as well go right to the topic at</p> <p>3 hand.</p> <p>4 At some point did the Woodbridge Police</p> <p>5 Department contact you in January of 2019 about</p> <p>6 an incident at the Hampton Inn?</p> <p>7 A No, they actually went to my</p> <p>8 grandmother's house while I was out going food</p> <p>9 shopping.</p> <p>10 Q And your grandmother's house is the</p> <p>11 address that you gave us earlier.</p> <p>12 A Yes.</p> <p>13 Q And what, if anything, do you know</p> <p>14 about the conversation that the police had with</p> <p>15 your grandmother?</p> <p>16 A I just know that they scared her half</p> <p>17 to death. That's pretty much it. She just</p> <p>18 called me and said there's a whole bunch of</p> <p>19 police here, what did you do. I was clueless. I</p> <p>20 didn't know anything about what was going on and</p> <p>21 that was pretty much the conversation.</p> <p>22 Q When she called you, being your</p> <p>23 grandmother, were the police still there?</p> <p>24 A I think they were.</p> <p>25 Q And did you -- what did you do then</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">15</p> <p>1 anything else between 2012 and 2019?</p> <p>2 A I was arrested for possession of</p> <p>3 marijuana in 2018. I just got a fine.</p> <p>4 Q Was that in Paterson?</p> <p>5 A Yes.</p> <p>6 Q Anything else before 2019?</p> <p>7 A No.</p> <p>8 Q Again, skipping over the 2019 incident</p> <p>9 for a few minutes, anything since January 26,</p> <p>10 2019 where you were arrested?</p> <p>11 A No.</p> <p>12 Q So the last time you've ever been</p> <p>13 arrested was January -- was a result of the</p> <p>14 January 26, 2019 incident.</p> <p>15 A Yes.</p> <p>16 MS. DVORAK: If I can. What name were</p> <p>17 you arrested under for each of those that</p> <p>18 you just described to us?</p> <p>19 THE WITNESS: Nijeer Parks.</p> <p>20 MS. DVORAK: N-i-j-e-e-r?</p> <p>21 THE WITNESS: Yes.</p> <p>22 MS. DVORAK: P-a-r-k-s?</p> <p>23 THE WITNESS: Yes.</p> <p>24 Q Have you ever gone by any aliases or</p> <p>25 anything like that?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">17</p> <p>1 when she contacted you, scared her half to death,</p> <p>2 she told you what they were there for, what did</p> <p>3 you do at that moment when you were contacted by</p> <p>4 her?</p> <p>5 A I called Paterson Police Department to</p> <p>6 ask them did I have a warrant out for my arrest</p> <p>7 or anything, why were they at my residence. They</p> <p>8 told me that they didn't have a warrant out for</p> <p>9 me but there was a warrant out for me from the</p> <p>10 City of Woodbridge. So I immediately hung up</p> <p>11 with Paterson, they gave me a number for</p> <p>12 Woodbridge, I called Woodbridge and they told me</p> <p>13 there was an incident at a hotel and they</p> <p>14 couldn't give me any more information, and I</p> <p>15 called back -- I hung up with them that night. I</p> <p>16 called back the next morning to find -- they said</p> <p>17 I should call back in the morning, there would be</p> <p>18 somebody else I could talk to. I called back in</p> <p>19 the morning and a lady -- I spoke to one of the</p> <p>20 ladies and she told me that, oh, it's just a</p> <p>21 formality to come in, show us that you weren't</p> <p>22 the person we're looking for, bring ID, some</p> <p>23 paperwork and stuff like that, and I told them I</p> <p>24 had work earlier and I don't drive so the</p> <p>25 earliest I could get down would be Wednesday.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

<p style="text-align: right;">18</p> <p>1 That was my next day off.</p> <p>2 MR. SEXTON: Try to speak louder and</p> <p>3 more slowly and as distinctly as possible.</p> <p>4 A So I told them Wednesday would be my</p> <p>5 next day off. I had my cousin, asked one of my</p> <p>6 cousins can he drive me down there. He drove me</p> <p>7 down there. I went there with the paperwork and</p> <p>8 my ID and stuff and showed who I am and I handed</p> <p>9 the lady my stuff. I was standing there talking</p> <p>10 to her and two officers just walked up and told</p> <p>11 me to put my hands behind my back.</p> <p>12 Q When your grandmother contacted you,</p> <p>13 you said you were food shopping?</p> <p>14 A Yes.</p> <p>15 Q Were you food shopping for your</p> <p>16 grandmother?</p> <p>17 A Yes.</p> <p>18 Q Was it local?</p> <p>19 A Yes.</p> <p>20 Q Is there a reason why you just didn't</p> <p>21 head home if the police were still there?</p> <p>22 A Yes. I didn't do anything wrong so I</p> <p>23 wasn't planning on going to jail that night.</p> <p>24 Q Did your grandmother say to you that</p> <p>25 the police were here to arrest you?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">20</p> <p>1 contacted you.</p> <p>2 A Yes.</p> <p>3 Q So you knew within a matter of</p> <p>4 minutes, would you say, that -- what the issue</p> <p>5 was with Woodbridge.</p> <p>6 A No.</p> <p>7 Q When did you figure it out that there</p> <p>8 was an issue with Woodbridge?</p> <p>9 A I never knew exactly what happened in</p> <p>10 Woodbridge until after I was arrested.</p> <p>11 Q So when you called the Woodbridge</p> <p>12 Police, did you -- for the first time, when you</p> <p>13 contacted them and said --</p> <p>14 A Yes.</p> <p>15 Q -- you know, you came to my house,</p> <p>16 I'm -- you know, you knew that there was an issue</p> <p>17 with the Woodbridge Police. You didn't know what</p> <p>18 it was but you knew there was an issue; is that</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q Did they tell you on the phone there</p> <p>22 was a warrant out for your arrest?</p> <p>23 A Yes, and I spoke to the lady. I said</p> <p>24 do you need me to come in? She said when can you</p> <p>25 get here? I said the earliest I can get there is</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">19</p> <p>1 A No, but I was pretty sure if they were</p> <p>2 there, they were there to arrest me so --</p> <p>3 Q So is it fair to say that you</p> <p>4 deliberately didn't go back to your grandmother's</p> <p>5 house that time because the police were there?</p> <p>6 A Yes, I wanted to call to see what was</p> <p>7 the reason that they were there which I did. If</p> <p>8 you check the record, I called and spoke to the</p> <p>9 Paterson Police Department that night and</p> <p>10 Woodbridge Police Department that night.</p> <p>11 Q But you were -- you contacted the</p> <p>12 Paterson Police Department, you contacted the</p> <p>13 Woodbridge Police Department to find out what the</p> <p>14 situation was.</p> <p>15 A Yes.</p> <p>16 Q And you were told by Paterson that</p> <p>17 there was a warrant out for your arrest in</p> <p>18 Woodbridge.</p> <p>19 A Yes.</p> <p>20 Q And you did that almost immediately</p> <p>21 after --</p> <p>22 A Immediately.</p> <p>23 Q You got to let me finish.</p> <p>24 You contacted the Paterson Police Department</p> <p>25 almost immediately after your grandmother had</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">21</p> <p>1 Wednesday. She said I'll see you Wednesday.</p> <p>2 Q And this is all within what period of</p> <p>3 time from when your grandmother called you?</p> <p>4 A This is all within an hour, all within</p> <p>5 the hour, within that hour I called Passaic</p> <p>6 County, I called Paterson. I got the number for</p> <p>7 Woodbridge, I called Woodbridge. And within that</p> <p>8 hour, I spoke to both police departments, I spoke</p> <p>9 with someone to tell them that I'd be there on</p> <p>10 Wednesday.</p> <p>11 Q Did you ever contact your grandmother</p> <p>12 on the phone or through other means before you</p> <p>13 went back to her house?</p> <p>14 A That night?</p> <p>15 Q Yes.</p> <p>16 A Yes, I went back there that night. I</p> <p>17 stayed there.</p> <p>18 Q So do you remember what day of the</p> <p>19 week January -- what day of the week this</p> <p>20 happened when your grandmother called you?</p> <p>21 A Not exactly sure the exact day. You</p> <p>22 don't want me to guess so I'm not exactly sure.</p> <p>23 Q Perfectly fine.</p> <p>24 And then you told Woodbridge that you were</p> <p>25 going to come down to the police station at some</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

<p style="text-align: right;">22</p> <p>1 point when you could, right?</p> <p>2 A Yes. I knew it was before Wednesday</p> <p>3 because my next day off -- I know my days off are</p> <p>4 always on Wednesdays so I knew Wednesday was</p> <p>5 going to be my next day off. My days off are</p> <p>6 always on Wednesday around the time.</p> <p>7 Q So you went down on the Wednesday.</p> <p>8 A I'm pretty sure I went down on</p> <p>9 Wednesday.</p> <p>10 Q And someone take you to the police</p> <p>11 station?</p> <p>12 A Yes.</p> <p>13 Q Who took you?</p> <p>14 A My cousin.</p> <p>15 Q What's his name?</p> <p>16 A Tyris Robertson.</p> <p>17 Q And when you were going to the police</p> <p>18 station in Woodbridge on that Wednesday, you had</p> <p>19 an understanding, did you not, that there was a</p> <p>20 bench warrant?</p> <p>21 A At that time, I just -- I spoke with</p> <p>22 someone, they just told me I should come in and</p> <p>23 talk to them. They didn't tell me that they were</p> <p>24 arresting me. They just said I should come in to</p> <p>25 see what was going on with the incident, to tell</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">24</p> <p>1 and beyond what the question calls for.</p> <p>2 So you knew there was an arrest warrant for</p> <p>3 you in Woodbridge on the day you drove -- when</p> <p>4 you were driven down to Woodbridge on that</p> <p>5 Wednesday.</p> <p>6 A Yes.</p> <p>7 Q Forget about whether they were going</p> <p>8 to arrest you or not. You were aware of that</p> <p>9 fact.</p> <p>10 A No, I wasn't. I was told to come down</p> <p>11 in for questioning.</p> <p>12 Q So even though Paterson had told you</p> <p>13 there was an arrest warrant for you in</p> <p>14 Woodbridge, you didn't know there was an arrest</p> <p>15 warrant.</p> <p>16 A When I spoke to Woodbridge, they</p> <p>17 didn't tell me there was a warrant. They told me</p> <p>18 to come in for questioning so --</p> <p>19 Q But when you contacted Paterson --</p> <p>20 A So I'm going to say no.</p> <p>21 MR. SEXTON: Wait for the question.</p> <p>22 A No.</p> <p>23 MR. SEXTON: Wait for the question.</p> <p>24 THE WITNESS: My answer is no.</p> <p>25 MR. SEXTON: I don't know the question</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">23</p> <p>1 my side of the story. I didn't know that I was</p> <p>2 going to be arrested or anything.</p> <p>3 Q I'm not asking if you knew you were</p> <p>4 going to be arrested. I want to know what</p> <p>5 you knew before you went --</p> <p>6 A No, I didn't.</p> <p>7 Q I'm trying to understand what you knew</p> <p>8 before you went down to the Woodbridge Police</p> <p>9 Department on that Wednesday. So --</p> <p>10 MR. SEXTON: It's been asked and</p> <p>11 answered.</p> <p>12 MR. RUBENSTEIN: I'm just trying to</p> <p>13 lay the groundwork of what I'm asking so</p> <p>14 there's no confusion.</p> <p>15 Q When you contacted Paterson the day</p> <p>16 your grandmother called you, they did tell you</p> <p>17 that there was a warrant out for your arrest, did</p> <p>18 they not?</p> <p>19 A Yes, and when I talked to Woodbridge,</p> <p>20 they told me --</p> <p>21 Q You answered my question.</p> <p>22 A -- to come in for questioning.</p> <p>23 Q That's fine. But you've answered my</p> <p>24 question yes, and I'm sure your attorney doesn't</p> <p>25 want you to go on and on giving an answer above</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">25</p> <p>1 so I -- what's the question? Don't answer</p> <p>2 until I tell you to.</p> <p>3 Q When Paterson indicated --</p> <p>4 A No.</p> <p>5 MR. SEXTON: Don't answer until I tell</p> <p>6 you.</p> <p>7 Q Sir, I'm going to be very nice about</p> <p>8 this. We're going to be here for a very long</p> <p>9 time and I'm going to get all my questions in and</p> <p>10 you can either answer them or you can leave, I</p> <p>11 don't care, but you pick one. You answer my</p> <p>12 questions, we'll get done. If you don't, we'll</p> <p>13 leave and we'll deal with the court because you</p> <p>14 don't want to answer.</p> <p>15 MR. SEXTON: There's no reason for</p> <p>16 this.</p> <p>17 MR. RUBENSTEIN: There is certainly --</p> <p>18 MR. SEXTON: No, there's not.</p> <p>19 MR. RUBENSTEIN: He says I'm attacking</p> <p>20 him. I'm very polite. He hasn't seen</p> <p>21 attack yet. I don't plan on attacking</p> <p>22 anyone, but if he feels he's attacked, he's</p> <p>23 in for a long day.</p> <p>24 So counsel, calm him down and get him</p> <p>25 to answer my question.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 MR. SEXTON: I've been doing that.
2 (Whereupon a short recess was taken.)
3 Q Again, I know I've asked this but I'm
4 a little confused.
When you contacted Paterson, Paterson
6 indicated to you that there was an arrest warrant
7 for you out of the Township of Woodbridge.
8 MR. SEXTON: Objection to form. You
9 can answer.
10 A Yes.
11 Q Do you understand what it means when
12 someone tells you that there's an arrest warrant
13 out of a particular town for you?
14 A Yes.
15 Q What is your understanding?
16 A It means a warrant.
17 Q And that means that unless something
18 changes, they're going to arrest you, does it
19 not?
20 A No.
21 MR. SEXTON: Objection to form.
22 Q You can answer.
23 A No.
24 Q So it's your understanding that if an
25 arrest warrant is issued, that doesn't mean
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1 they're going to arrest you.
2 MR. SEXTON: Argumentative. He
3 answered the question.
4 MR. RUBENSTEIN: I'm sorry. He did?
5 MR. SEXTON: Yeah.
6 Q You can answer.
7 A Yes.
8 Q So -- and thereafter, you contacted
9 the Woodbridge Police Department on the same day
10 that you contacted the Paterson Police
11 Department.
12 A Yes.
13 Q Did whoever you spoke to tell you that
14 there was an arrest warrant for you?
15 A No.
16 Q Did you ask if there was an arrest
17 warrant for you?
18 A Yes. They told me they just wanted me
19 to come in for questioning.
20 Q So was it your understanding that
21 there was an arrest warrant for you in Woodbridge
22 and that Woodbridge Police Department wanted you
23 to come in to find out about your side of the
24 story or what information you had about some
25 incident?
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1 A Yes.
2 Q Do you know the name of the person you
3 spoke to at Woodbridge?
4 A No.
5 Q Do you know if it was a male or a
6 female?
7 A Female.
8 Q Was it -- did you call the emergency
9 number or did you call the main number of
10 Woodbridge Police Department, if you remember?
11 A Not sure.
12 Q Do you know who you spoke to in
13 Paterson?
14 A No.
15 Q Do you know if you called the main
16 number or the 911 emergency number?
17 A The main number.
18 Q Did you make any other phone calls to
19 the Woodbridge Police Department after that first
20 phone call to them between the time of that first
21 phone call and the time you went to the police
22 station?
23 A Pretty sure I did.
24 Q Do you have a recollection of when
25 that conversation took place?
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1 A No.
2 Q Do you have a recollection of about
3 what the content of that conversation was?
4 A No. I do actually. I kept calling
5 trying to see what happened. They just kept
6 telling me to come -- I kept calling asking about
7 what was the incident. They just kept telling me
8 to come.
9 Q Do you remember if you spoke to a
10 dispatcher or police officer, do you have any
11 knowledge?
12 A I spoke to a court clerk, I spoke to
13 an officer. I spoke to a couple of different
14 people.
15 Q And was this all during the same phone
16 call or was it a number of phone calls?
17 A No, during that phone call I was
18 transferred to a couple of different people. The
19 court clerk was the first person I talked to.
20 She transferred me to an officer. The officer
21 transferred me to another officer.
22 Q And that officer told you to just come
23 on down to Woodbridge and we'll deal with it.
24 A Um-hum.
25 Q Is that a yes?
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<p style="text-align: right;">30</p> <p>1 A Yes.</p> <p>2 Q So on that Wednesday, you and your</p> <p>3 relative drive down to the Township of Woodbridge</p> <p>4 Police Department; is that correct?</p> <p> A Yes.</p> <p>6 Q Do you go into the police station</p> <p>7 alone or does he escort you into the police</p> <p>8 station?</p> <p>9 A I go in alone.</p> <p>10 Q He was waiting outside for you or he</p> <p>11 just dropped you off and then --</p> <p>12 A He was waiting outside for me.</p> <p>13 Q When you got inside, tell me what</p> <p>14 happened next.</p> <p>15 A I walked up to a desk, I talked to the</p> <p>16 lady at the desk. She asked my name. I gave her</p> <p>17 my ID, I gave her my paperwork. She told me they</p> <p>18 were waiting for me, she would go get them and</p> <p>19 she said she'll be right back. When she came</p> <p>20 back, she started talking to me. Me and her were</p> <p>21 having a conversation and two officers came up</p> <p>22 and asked me to put my hands behind my back and</p> <p>23 told me that I was under arrest.</p> <p>24 Q So when you arrived, did you speak to</p> <p>25 a dispatcher, did you speak to a police officer</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">32</p> <p>1 males?</p> <p>2 A Yes.</p> <p>3 Q Do you remember if the person who you</p> <p>4 first spoke with when you arrived at Woodbridge</p> <p>5 was a male or female?</p> <p>6 A The person at the desk?</p> <p>7 Q Yes.</p> <p>8 A It was a female.</p> <p>9 Q At that point, were you handcuffed?</p> <p>10 A Yes.</p> <p>11 Q Were you told what you were under</p> <p>12 arrest for?</p> <p>13 A No, they just handcuffed me and took</p> <p>14 me upstairs to an interrogation room.</p> <p>15 Q At that point when you were downstairs</p> <p>16 or when you were first being arrested or</p> <p>17 handcuffed, I should say, did they read you your</p> <p>18 Miranda warning?</p> <p>19 A No.</p> <p>20 Q They just handcuffed you and --</p> <p>21 A They handcuffed me, took me upstairs</p> <p>22 and left me in a room for about maybe 20 minutes.</p> <p>23 Q So they put you in a room for about</p> <p>24 20 minutes where you were left alone. Were you</p> <p>25 handcuffed this entire time?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">31</p> <p>1 when you first arrived?</p> <p>2 MR. SEXTON: Asked and answered. You</p> <p>3 can answer again.</p> <p>4 A I spoke to a lady at the desk. I</p> <p>5 spoke to the lady at the desk. When you walk in,</p> <p>6 there's a desk right there with an officer</p> <p>7 sitting at the desk. I spoke to an officer at</p> <p>8 the desk. She asked me my name. I gave her my</p> <p>9 ID, I gave her the paperwork that I had and told</p> <p>10 her I was waiting for -- that I was told to come</p> <p>11 in.</p> <p>12 Q Was this particular woman, was she</p> <p>13 behind like a glass partition?</p> <p>14 A She was just sitting behind a desk.</p> <p>15 Q And you said at some point two police</p> <p>16 officers came out and told you that you were</p> <p>17 under arrest?</p> <p>18 A Yes.</p> <p>19 Q Do you know the name of the person who</p> <p>20 you first spoke with?</p> <p>21 A No.</p> <p> Q Do you know the names of the police</p> <p>22 officers who told you that you were under arrest?</p> <p>24 A No.</p> <p>25 Q Do you remember if they were both</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">33</p> <p>1 A Yes.</p> <p>2 Q And then someone came -- at least one</p> <p>3 person came in to speak to you; is that correct?</p> <p>4 A Yes.</p> <p>5 Q Was it one person or was it more than</p> <p>6 one person?</p> <p>7 A It was one officer.</p> <p>8 Q Do you remember his or her name?</p> <p>9 A No.</p> <p>10 Q What did that police officer tell you?</p> <p>11 A I asked him why was I being arrested.</p> <p>12 He told me basically, "You know what you did.</p> <p>13 You know why you're here." He didn't tell me</p> <p>14 anything. He asked me do I have anything to tell</p> <p>15 him about the incident. I didn't know about the</p> <p>16 incident.</p> <p>17 Q Is there anything else that you can</p> <p>18 tell me about that back and forth with the first</p> <p>19 police officer that came in to speak to you?</p> <p>20 A He was just basically trying to make</p> <p>21 me tell him that I did something that I didn't</p> <p>22 do.</p> <p>23 Q Did he threaten you in any way?</p> <p>24 A Just told me, "You know what you did.</p> <p>25 You did it. We know you did it. We got you.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 That's what you're here for. You know what you
2 did."
3 I'm asking him what am I here for, what did
4 I do.

"There's no reason for me to tell you what
6 you did. You know what you're here for."

7 Q Going back for a second, the police
8 officer that put the handcuffs on you, was he
9 aggressive in any way?

10 A He just grabbed me and just grabbed my
11 arms and put my hands behind my back. I turned
12 around to look, they just pushed me back against
13 the counter and told me don't move. I was
14 talking to the lady. They just walked up on
15 me -- I thought they were walking past and when
16 they got behind me, he just grabbed my arms and
17 started -- I turned, like what's going on and he
18 pushed me back against the counter. I turned to
19 check to see like what's going on and he pushed
20 me against the counter like and he turned me back
21 around and told me don't resist, and I didn't,
22 and I just let him put my hands behind my back.

23 Q And then you were, like you said
24 before, you were brought up to the room where you
25 spent about 20 minutes by yourself.

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35

1 A Yes.

2 Q And then the other officer came in and
3 didn't tell you what you were there for, correct?

4 A No.

5 Q He was just trying to get you to admit
6 to what had happened and your involvement in it.

7 A Yes.

8 Q And is it fair to say that he didn't
9 lay a hand on you or is it not say fair to say?

10 MR. SEXTON: Who is he?

11 Q The police officer who came in to
12 speak to you.

13 A No, he didn't lay a hand on me.

14 Q At any point in time during the
15 conversation or the back and forth with this
16 police officer, did he ever tell you why you were
17 there?

18 A No.

19 Q Did you ever ask him why you were
20 there?

21 A Yes. His only answer to why I was
there was "You know what you did. You know why
23 you're here."

24 Q And did anyone else come in to speak
25 to you while that officer was in the room?

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1 A He left, another officer came in and
2 asked me the same questions.

3 Q Do you know the name of that police
4 officer?

5 A No.

6 Q Did that police officer get aggressive
7 with you in any way?

8 A They got aggressive like with their
9 manner, like with their words, like trying to
10 scare me, but no one put their hands on me or
11 anything.

12 Q So there was no physical
13 interaction --

14 A No.

15 Q -- between you and the first police
16 officer as well as the second police officer.

17 A No.

18 Q Thank you.

19 Did the second police officer who came into
20 the room ever tell you what you were -- what the
21 charges were or why you were there?

22 A No.

23 Q And how long had you been in that room
24 when the second police officer came to speak to
25 you? Approximately.

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1 A Maybe about close to an hour now.

2 Q So you were upstairs in this room for
3 about an hour, two police officers at different
4 times had come in to talk to you but you still
5 didn't know --

6 A No.

7 Q -- what you were charged with or what
8 the allegations were.

9 A No.

10 Q And did you inquire from the second
11 police officer why you were there?

12 A Yes.

13 Q And he didn't answer.

14 A He didn't answer me either.

15 Q Was there any other conversation
16 between you and the second police officer during
17 that conversation that you had?

18 A No. We had pretty much the same
19 conversation that I had with the first officer,
20 him asking me and telling me what I did, me
21 asking him what did I do, what happened and my --
22 pretty much my answer from -- the same answer was
23 from him, "You know what you did. You know why
24 you're here."

25 Q So he didn't describe in any way --

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1 **A No. Only thing they told me was the**
2 **incident at a hotel. That's the only thing I**
3 **knew about the incident was that it happened at a**
4 **hotel.**

5 **Q After -- at some point in time did**
6 **that second police officer leave the room you**
7 **were in?**

8 **A Yes.**

9 **Q And were you kept in that room during**
10 **this time?**

11 **A Yes.**

12 **Q At some point did someone else come**
13 **into the room?**

14 **A I'm not sure. I know a couple of**
15 **other officers came and looked, like poked their**
16 **head in the room and looked at me, but no one**
17 **came -- I don't remember anybody asking me no**
18 **questions. I remember a couple of officers**
19 **coming to look.**

20 **Q But they didn't say anything to you.**

21 **A No.**

22 **Q They didn't touch you physically in**
23 **any way?**

24 **A No. Just was seeing a lot of happy**
25 **officers come in and look like we got him,**
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1 **smiling, giving each other high fives and stuff**
2 **like that, but nobody came and did anything to**
3 **me.**

4 **Q Do you know the names of any of these**
5 **officers?**

6 **A No.**

7 **Q Do you remember if they were male or**
8 **female?**

9 **A Mostly males.**

10 **Q Were there any female officers?**

11 **A Only female officer that I seen was at**
12 **-- was not at the -- not in the county area, was**
13 **at the jail. They weren't in like the -- I guess**
14 **that's their court or holding facility. They**
15 **weren't there.**

16 **Q What was the next interaction you had**
17 **with anyone from the Woodbridge Police**
18 **Department?**

19 **A When they took me from up there, they**
20 **took me for fingerprinting and stuff like that**
21 **and there was a bunch of officers and they**
22 **fingerprinted me, they sat me down in like a**
23 **little bench area, they took their photos and**
24 **they had me sitting in this hallway. Like the**
25 **hallway was wide open and I could see another**
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1 **office right here, another office right here,**
2 **another office right here, and then there was a**
3 **long hallway down at the end, like another --**
4 **like a long hallway going down this way, and like**
5 **we were sitting there. After they fingerprinted**
6 **me and stuff, I think I was waiting for transport**
7 **and I was just sitting there for a while.**

8 **Q So the next interaction you had after**
9 **the first two officers had spoken to you, is it**
10 **fair to say that someone came into the room to**
11 **take you to be fingerprinted and processed?**

12 **A Yes.**

13 **Q Other than the usual holding onto you**
14 **and escorting to where you had to be**
15 **fingerprinted, was there any excessive force or**
16 **any type of excessive conduct on behalf of that**
17 **officer or officers?**

18 **A Trying to where I just was getting to**
19 **that, there was a long hallway down at the end as**
20 **I stated before. They had me handcuffed to the**
21 **bench, so after they fingerprinted me and took**
22 **their pictures, I'm sitting on this bench for a**
23 **while. So now there's a bunch of officers coming**
24 **in and they're all looking at me, asking me**
25 **little questions like "We got him," making little**
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1 **statements like "We got him," smart remarks like**
2 **"Oh, look at this fucker," excuse my language.**
3 **"Oh, we got him," "This is the prick right here,"**
4 **"This is the A-hole right here." They all going**
5 **down this long hallway to another -- couple of**
6 **doors down the hallway, but there's a camera**
7 **right here but I don't see a camera down this**
8 **hallway. So they uncuff me and they want me to**
9 **go down this hallway, but as I'm looking, I don't**
10 **see a camera down this hallway and there's a**
11 **million officers down there.**

12 **So I fake like an asthma attack like I can't**
13 **breathe because I didn't want to go down the**
14 **hallway till any of the other officers down there**
15 **because I didn't see a camera in the hallway and**
16 **it was just too many officers down there for me**
17 **to go down -- like to go down there so I faked**
18 **like an asthma attack or something and told them**
19 **I couldn't breathe, and I fell to the floor and**
20 **they like -- they helped me up off the floor and**
21 **sat me on the bench and they set me there until**
22 **the EMTs came.**

23 **Q Going back to my question, though,**
24 **that I was asking.**

25 **You had said all of this occurred after you**
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<p style="text-align: right;">42</p> <p>1 were fingerprinted, correct?</p> <p>2 A This was when -- this is going to</p> <p>3 fingerprinting -- yeah, after I got</p> <p>4 fingerprinted, they were taking me to take the</p> <p>5 pictures.</p> <p>6 Q The incident -- the thing that you</p> <p>7 just described to us --</p> <p>8 A Yeah, after fingerprinting --</p> <p>9 MR. SEXTON: Wait, wait, wait, wait.</p> <p>10</p> <p>11 Q The thing that you just described</p> <p>12 about being -- you know, taking the handcuffs off</p> <p>13 you, the officer going down the hall into another</p> <p>14 room, is that after or before you were</p> <p>15 fingerprinted?</p> <p>16 A After they took the fingerprints and</p> <p>17 the pictures.</p> <p>18 Q So my question was as you were going</p> <p>19 to be fingerprinted, you were escorted to where</p> <p>20 they take your fingerprints by police officers,</p> <p>21 correct?</p> <p>22 A Um-hum.</p> <p>23 Q Is that a yes?</p> <p>24 A Yes.</p> <p>25 Q How many police officers escorted you</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">44</p> <p>1 forward. You can walk with me without pushing me</p> <p>2 or touching me. You don't have to push me</p> <p>3 forward if I'm walking with you agreeably, I'm</p> <p>4 not resisting, I'm cuffed.</p> <p>5 Q And was it both officers, was it one</p> <p>6 of the officers?</p> <p>7 A Both.</p> <p>8 Q And at this point, do you know -- I</p> <p>9 know you don't know their names when they first</p> <p>10 are talking to you. Do you remember their names</p> <p>11 at any point?</p> <p>12 A I still don't know their names.</p> <p>13 Q And then is it fair to say that you</p> <p>14 are taken into the room to be fingerprinted?</p> <p>15 A Yes.</p> <p>16 Q And were you fingerprinted?</p> <p>17 A Yes.</p> <p>18 Q Were you fingerprinted without</p> <p>19 incident, meaning there was no physical</p> <p>20 encounters or anything like that?</p> <p>21 A No, just the usual, just mostly</p> <p>22 talking and just -- they were just talking</p> <p>23 disrespectfully.</p> <p>24 Q Can you tell me what you recall about</p> <p>25 what they were saying that you felt was</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">43</p> <p>1 to be fingerprinted?</p> <p>2 A The officer that -- two officers that</p> <p>3 I spoke to in the office.</p> <p>4 Q During the time that they were</p> <p>5 escorting you from the room that you were in to</p> <p>6 where you were fingerprinted, would you describe</p> <p>7 their conduct as being anything but appropriate?</p> <p>8 A Aggressive.</p> <p>9 Q In what way?</p> <p>10 A Like their demeanor, like the way they</p> <p>11 were talking to me. Like the way they were just</p> <p>12 like -- you can walk somebody down the hallway</p> <p>13 without nudging them and pushing them forward</p> <p>14 and pretty much.</p> <p>15 Q So they were aggressive in what they</p> <p>16 were saying to you?</p> <p>17 A Yes.</p> <p>18 Q Were they aggressive in physically</p> <p>19 contacting you?</p> <p>20 A I just said you can walk me down the</p> <p>21 hallway without pushing me forward and nudging me</p> <p>22 forward, so yes.</p> <p>23 Q So how were they aggressive physically</p> <p>24 towards you?</p> <p>25 A Pushing me forward, nudging me</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">45</p> <p>1 disrespectful?</p> <p>2 A "Hurry up, you fucking asshole, you</p> <p>3 fucking prick." They were just being</p> <p>4 disrespectful.</p> <p>5 Q And did you respond in any way to</p> <p>6 them?</p> <p>7 A No.</p> <p>8 Q Did you talk on your way up to the</p> <p>9 fingerprinting area?</p> <p>10 A No.</p> <p>11 Q After you were fingerprinted, what did</p> <p>12 they do -- what was the next part in their</p> <p>13 process on that particular day?</p> <p>14 A They tried to take me -- I sat on a</p> <p>15 bench for a little while in the hallway where I</p> <p>16 was cuffed at. They tried to take me down the</p> <p>17 hallway. I told you I was acting like I had the</p> <p>18 asthma attack, like I fell to the floor. The</p> <p>19 EMTs came. I sat on that bench with the EMTs</p> <p>20 until I was transported.</p> <p>21 Q Were you photographed?</p> <p>22 A Yes.</p> <p>23 Q Were you photographed in the same room</p> <p>24 that you were fingerprinted in?</p> <p>25 A I honestly can't remember.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 Q Were you photographed before what
2 you've described about going down the hallway --
3 A **Yes, it was before that.**
4 Q Do you recall who photographed you?
A **One of the officers that brought me**
6 **downstairs.**
7 Q Was it a different officer from the
8 two that escorted --
9 A **It was one of the two.**
10 MR. SEXTON: Wait until he finished.
11 Just sort of let him finish and then like
12 count to three and then answer.
13 Q So one of the two officers who had
14 brought you up to be fingerprinted also took you
15 to be photographed.
16 A **Yes.**
17 Q But you don't recall his name.
18 A **No.**
19 Q Were you photographed without
20 incident, meaning that there was no physical
21 interaction between you and the officer or any
22 comments that were made, anything at all?
23 A **There were comments the whole time,**
24 **but there was no physical.**
25 Q Were the comments along the same lines
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1 of what you described to me a short time ago?
2 A **Yes.**
3 Q Do you recall any other comments that
4 stood out to you while you were being
5 photographed?
6 A **No.**
7 Q After you were photographed, did they
8 -- where did they take you next?
9 A **Back out to the hallway, handcuffed me**
10 **to the bench.**
11 Q As you're sitting there handcuffed to
12 the bench, did anyone speak to you at all?
13 A **A bunch of officers are walking past**
14 **talking to each other, looking at me and making**
15 **comments, but they weren't -- like nobody was**
16 **talking to me that I was able to hear everything**
17 **that was going on around me.**
18 Q So it's your testimony that there were
19 officers who were talking about you but not
20 talking directly to you.
21 A **Yes.**
22 Q Did you say anything to any of these
23 officers?
24 A **No.**
25 Q And if I understood you correctly, you
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1 said that it's a long hallway and that some of
2 these officers had gone into a room towards the
3 end of the hallway; is that correct?
4 A **Some of them were going in the room,**
5 **some of them were coming back towards me. There**
6 **was just officers walking back and forth past me**
7 **the whole time I was sitting there.**
8 Q And all this time you were handcuffed
9 to the bench.
10 A **Yes.**
11 Q And then at some point you said that
12 you were picked up off the bench and there was --
13 you were no longer in handcuffs; is that correct?
14 A **Yes, I still was in handcuffs. I was**
15 **unhandcuffed from the bench, though.**
16 Q So you were still in handcuffs.
17 A **Yes.**
18 Q And you believe that at that point you
19 were going to be taken to some other room down
20 the hall.
21 A **Yes.**
22 Q But you didn't want to go to that room
23 down the hall for fear --
24 A **I believe they were taking me down the**
25 **hall to beat me up.**
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1 Q Did any of the officers say that that
2 was their intent?
3 A **They didn't have to say it. Just from**
4 **their demeanor and the look the way things were**
5 **going on around me and this is not my first time**
6 **being arrested or going -- being in these type --**
7 **being in this type of environment so I knew from**
8 **prior situations that the best thing for me to do**
9 **was stay under the camera.**
10 Q So up until you were -- you're
11 handcuffed, you were handcuffed to the bench, but
12 up until that time when you were handcuffed to
13 the bench and then you were not handcuffed to the
14 bench anymore, did any of the police officers try
15 to rough you up?
16 A **Not -- no. Like I said, my best -- to**
17 **me, my best thing was to stay under this camera.**
18 Q That's not what I'm asking.
19 A **So no one touched me.**
20 Q That's not what I'm asking.
21 From the time of your arrest --
22 A **I said no one touched me.**
23 MR. SEXTON: Don't talk over.
24 Q But you're saying -- I just want to
25 make sure that we're talking about the same
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<p style="text-align: right;">50</p> <p>1 timeframe. That's it.</p> <p>2 From the time of your -- from the time you</p> <p>3 were handcuffed to that moment in time when</p> <p>4 you're sitting at the bench and they're getting</p> <p>5 ready to remove -- you're no longer cuffed up to</p> <p>6 that bench area, were you roughed up at all?</p> <p>7 A No.</p> <p>8 Q Did they give you any reason to</p> <p>9 believe that you were going to be roughed up at</p> <p>10 that point in time?</p> <p>11 A Yes.</p> <p>12 Q And what did they -- what reason do</p> <p>13 you have to believe that you were going to be</p> <p>14 roughed up?</p> <p>15 A Their words and their demeanor.</p> <p>16 Q What words did they say?</p> <p>17 A "Get the fuck up," "Come the fuck with</p> <p>18 us," "Hurry the fuck up," "Stop moving so damn</p> <p>19 slowly, we're going to give you something to move</p> <p>20 slowly for," "Let's go."</p> <p>21 Q Had they used that type of language</p> <p>22 before this?</p> <p>23 A They were being aggressive but they</p> <p>24 were more aggressive at this time.</p> <p>25 Q Do you have any idea whose names -- of</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">52</p> <p>1 looking, I didn't see a camera.</p> <p>2 Q But it's possible that there are video</p> <p>3 cameras in the room.</p> <p>4 A Yeah, but there was none going down</p> <p>5 that hallway. I was -- from leaving the area</p> <p>6 where I was cuffed at, I would have been walking</p> <p>7 down a hallway where there wasn't any cameras.</p> <p>8 Q So was it your thought process that</p> <p>9 you were going to be assaulted in the hallway?</p> <p>10 A Yes.</p> <p>11 Q And not in a private room.</p> <p>12 A Going somewhere down that way, I</p> <p>13 figured I was going to be assaulted so I figured</p> <p>14 the best thing for me to do was stay under the</p> <p>15 camera.</p> <p>16 Q So there were some cameras in the</p> <p>17 hallway because you were in the hallway cuffed</p> <p>18 to --</p> <p>19 A There was a camera above me where I</p> <p>20 was sitting on the bench.</p> <p>21 Q And you don't know how far that camera</p> <p>22 is able to --</p> <p>23 A You have to go --</p> <p>24 Q How far that camera is able to record.</p> <p>25 A You have to go around the corner to go</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">51</p> <p>1 the names of any of these officers?</p> <p>2 A No.</p> <p>3 Q And you don't really know, do you, if</p> <p>4 you were going to be assaulted or roughed up in</p> <p>5 any way. You thought you might be but you didn't</p> <p>6 know that that was their intention?</p> <p>7 MR. SEXTON: Objection to form. You</p> <p>8 can answer.</p> <p>9 A No.</p> <p>10 Q So do you know what room they were</p> <p>11 going to bring you into, if at all, at that</p> <p>12 moment in time when you were -- handcuffs were no</p> <p>13 longer against the bench and you were standing</p> <p>14 up?</p> <p>15 A No.</p> <p>16 Q So at this point in time, your</p> <p>17 decision was that you wanted to fake an asthma</p> <p>18 attack; is that correct?</p> <p>19 A Yes.</p> <p>20 Q And what makes you think that those</p> <p>21 other rooms down the hall don't have video</p> <p>22 cameras?</p> <p>23 A As I was sitting there when they</p> <p>24 started -- as I was getting uncuffed and they</p> <p>25 started walking me towards the hallway, I was</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">53</p> <p>1 down the hallway. Like I don't think the camera</p> <p>2 could see through the walls.</p> <p>3 Q So the area that you thought you were</p> <p>4 going to be walked after you were not handcuffed</p> <p>5 to the bench, it wasn't a straight line, so to</p> <p>6 speak, it wasn't a straight walkway.</p> <p>7 A It wasn't a straight area where the</p> <p>8 camera -- it wasn't in the area where I think the</p> <p>9 camera could see, the hallway.</p> <p>10 Q Was there a turn to the left, a turn</p> <p>11 to the right?</p> <p>12 A To the right.</p> <p>13 Q And you were able to see from where</p> <p>14 you were standing or seated, you were able to see</p> <p>15 around the right side to see if there were</p> <p>16 cameras?</p> <p>17 A No, once they walked me to where I was</p> <p>18 -- the turn to go down the hallway, then I looked</p> <p>19 up and I seen that I didn't see one in the</p> <p>20 hallway, like coming, like I didn't see one in</p> <p>21 front of me. I looked but I didn't see one</p> <p>22 behind me and that's when I realized I don't</p> <p>23 think I want to go down this hallway.</p> <p>24 Q Do you recall how many cameras you</p> <p>25 noticed, if at all, during the time that you were</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 walking before you faked the asthma attack?

2 **A I didn't walk anywhere. I probably**

3 **took two to three steps before I got to where the**

4 **hallway -- to where it got to where I could turn**

5 **to go down the other side of the hallway.**

6 **Q** Did you ever go to the right at all

7 during this time?

8 **A No, I just -- once I was walking and I**

9 **got to where I could make the right and I looked**

10 **and I didn't see anything, I just --**

11 **Q** That's when you decided to fake the

12 asthma attack.

13 **A Yes.**

14 **Q** And at this point in time the officers

15 put you back on the bench; is that correct?

16 **A Yes.**

17 **Q** And then they called for the EMTs?

18 **A Yes.**

19 **Q** And did the EMTs come?

20 **A Yes.**

21 **Q** Did they provide you with medical

22 care?

23 **A Yes.**

24 **Q** Did you have to go to the hospital at

25 all?

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1 **A The EMTs told me I didn't need to go**

2 **to the hospital, but I spoke to one, I spoke to**

3 **the EMT and I told him that I was scared for my**

4 **life and that I didn't want to go to -- I was**

5 **scared for my life, I didn't want to be --**

6 **basically the EMTs, they stayed there until I was**

7 **transported.**

8 **Q** And did they stay with you during the

9 entire --

10 **A They stayed till I was transported.**

11 **Q** Do you remember the names of any of

12 these EMTs?

13 **A No. It's a couple of years now, I**

14 **don't remember.**

15 **Q** Do you remember -- did more than one

16 EMT respond?

17 **A Yes, a male and female.**

18 **Q** And who did you tell that you felt

19 scared for your life, you feared for your life,

20 which EMT?

21 **A Both of them.**

22 **Q** Do you recall if they -- what -- do

23 you recall which particular squad they worked

24 for?

25 **A No.**

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1 **Q** So if I said to you it was the

2 Woodbridge squad, an Avenel squad, you

3 wouldn't --

4 **A I wouldn't know the difference.**

5 MS. DVORAK: On that topic, if I can.

6 How long were you with the EMTs from

7 the time they arrived to the time they left

8 and you were transported?

9 THE WITNESS: Maybe about an hour or

10 so.

11 MS. DVORAK: Thank you.

12 THE WITNESS: Could have been more,

13 but I think about an hour.

14 MS. DVORAK: Is that your best

15 estimate?

16 THE WITNESS: Yes.

17 MS. DVORAK: Thank you.

18 **Q** So you were with the EMTs. At this

19 point were you still handcuffed to the bench?

20 **A Yes, I was handcuffed back to the**

21 **bench.**

22 **Q** Did any of the police officers say

23 anything to you during this approximate hour that

24 you were handcuffed to the bench?

25 **A They were just walking back. Like a**

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1 **lot of different officers just walking back and**

2 **forth looking at me, some smiling, like "We got**

3 **him" and still making snide remarks. There was**

4 **just a lot of back and forth just looking at me.**

5 **Q** Did they say that they -- did they

6 comment about, you know, catching you or catching

7 the guy?

8 **A Yes.**

9 **Q** And when they were saying that or

10 commenting about it, did you have an

11 understanding at this point in time what you were

12 under arrest for?

13 **A No. Actually I still didn't know what**

14 **I was under arrest for.**

15 **Q** So no one ever told you other than

16 what you've said earlier that you knew it had

17 something to do about a hotel or something

18 Hampton Inn --

19 **A That's all I knew about.**

20 **Q** No one had described to you at this

21 point in time or up to this point in time that

22 someone had tried to essentially run over two

23 police officers?

24 **A No. Only thing that I was -- only**

25 **other thing they asked me about besides, they**

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<p style="text-align: right;">58</p> <p>1 asked me about a blue Dodge Challenger, and I</p> <p>2 said I don't even have a driver's license. That</p> <p>3 was like the only -- that was the farthest we got</p> <p>4 with any of the questions, like I don't even have</p> <p>5 a driver's license, but I was never told anything</p> <p>6 about whatever happened or anything.</p> <p>7 Q So there's about an hour where the</p> <p>8 EMTs are sitting or staying with you because of</p> <p>9 your concerns. After the approximate hour went</p> <p>10 by, were you transported where?</p> <p>11 A To Middlesex County jail, if I'm not</p> <p>12 mistaken.</p> <p>13 Q Were there any other interactions</p> <p>14 before you were transported to the jail with the</p> <p>15 Woodbridge Police Department where someone</p> <p>16 stopped and asked you questions about whatever</p> <p>17 they were questioning you about, whatever you</p> <p>18 were being arrested for?</p> <p>19 A No. Not that I recall anyway.</p> <p>20 Q And as you sit here today, you don't</p> <p>21 know the names of any of the police officers that</p> <p>22 you had interactions with up until this point in</p> <p>23 time.</p> <p>24 A No.</p> <p>25 Q So at this point in time you're then</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">60</p> <p>1 that?</p> <p>2 A Yes.</p> <p>3 Q How long were you at the correctional</p> <p>4 facility before you had your first court</p> <p>5 appearance?</p> <p>6 A I think almost -- I can't be sure. It</p> <p>7 was a few days. It was some days, though. I</p> <p>8 can't be sure exact how many days. It was a</p> <p>9 while ago. It was some days. I think I went</p> <p>10 through a weekend or something.</p> <p>11 Q Do you recall if it was more or less</p> <p>12 than a week?</p> <p>13 A Around that time.</p> <p>14 Q Going back to the fingerprints that</p> <p>15 were taken, did anyone ever discuss -- and,</p> <p>16 again, conversations with your attorney are off</p> <p>17 limits -- did anyone ever tell you what the</p> <p>18 results were of the fingerprints that were taken?</p> <p>19 A My other attorney had no knowledge of</p> <p>20 the results of the fingerprints. Every time we</p> <p>21 went to court and asked the question, they said</p> <p>22 they didn't have any.</p> <p>23 Q Did you know if any other tests were</p> <p>24 run like a DNA or anything like that?</p> <p>25 A Yes, we asked for DNA.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">59</p> <p>1 transported to Middlesex County Correctional</p> <p>2 Facility, correct?</p> <p>3 A Yes.</p> <p>4 Q And were you ever told what you were</p> <p>5 charged with when you were there?</p> <p>6 A I didn't find out exactly what I was</p> <p>7 charged with until I met with a public defender</p> <p>8 when she came and gave me my paperwork. I was</p> <p>9 there for a couple of days already.</p> <p>10 Q Did she come to the correctional</p> <p>11 facility or was it in court?</p> <p>12 A She came to the correctional facility.</p> <p>13 My first court appearance I went to for my video</p> <p>14 court at the correctional facility.</p> <p>15 Q Do you know the name of the public</p> <p>16 defender?</p> <p>17 A No.</p> <p>18 Q Was it a he or she?</p> <p>19 A A she, female.</p> <p>20 Q Do you recall what she told you the</p> <p>21 charges were?</p> <p>22 A She didn't actually tell me. I think</p> <p>23 she gave me a piece of paper that had all the</p> <p>24 charges on it.</p> <p>25 Q Did you have an opportunity to review</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">61</p> <p>1 MR. SEXTON: At what time?</p> <p>2 MR. RUBENSTEIN: I'm sorry?</p> <p>3 MR. SEXTON: At what time?</p> <p>4 Q Fair enough.</p> <p>5 Let's start with your public defender. Did</p> <p>6 she -- do you know if there was ever a request</p> <p>7 made for the results of fingerprints that were</p> <p>8 taken?</p> <p>9 A I don't know. I only had that lady</p> <p>10 for I think the first two court appearances while</p> <p>11 I was incarcerated.</p> <p>12 Q Do you know if she asked for DNA</p> <p>13 samples?</p> <p>14 A No.</p> <p>15 Q You don't know if she asked for the</p> <p>16 results of any DNA --</p> <p>17 A I don't know what she asked for.</p> <p>18 Q Do you know if she asked for the</p> <p>19 results of any DNA that was taken during the</p> <p>20 first two court appearances or whatever she was</p> <p>21 representing you for?</p> <p>22 A No. The first two court appearances</p> <p>23 were only for bail.</p> <p>24 Q Were you given bail?</p> <p>25 A I was released under the -- New Jersey</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 **has no bail so I was released under -- I forgot**
2 **the name of the law where I have to report once a**
3 **week.**

4 **Q** And approximately how long were you
incarcerated at the county jail -- I'm sorry, at
6 the Middlesex County Correctional Facility before
7 you were released?

8 **A Maybe 10 or 11 days.**

9 **Q** And do you recall how many court
10 appearances you had before you were released?

11 **A Two.**

12 **Q** At some point you decided or a
13 decision was made to hire a different attorney?

14 **A Yes.**

15 **Q** And who made that decision?

16 **A Me and my fiancée.**

17 **Q** Do you recall the name of the attorney
18 that you retained?

19 **A Ravi Shah.**

20 **Q** Ravi?

21 **A Ravi Shah.**

22 **Q** Can you spell his or her --

23 **A R-a-v-i.**

24 **Q** And is it a he or she?

25 **A A he.**

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1 **Q** Where is Mr. Shah's office located?

2 **A I think it's in Woodbridge.**

3 **Q** And --

4 **A Somewhere in Middlesex County. It**
5 **might not be Woodbridge.**

6 **Q** Did Mr. Shah represent you for the
7 remainder of your case?

8 **A Yes.**

9 **Q** Do you know if Mr. Shah ever made a
10 request for the fingerprints that were taken?

11 **A Yes.**

12 **Q** Did he ever get those results?

13 **A No. We were told that they lost them**
14 **or that they didn't take them in time or**
15 **something happened to them.**

16 **Q** Who supposedly lost the fingerprint
17 results?

18 **A Middlesex County. I don't know**
19 **exactly who, what department, but --**

20 **Q** Did Mr. Shah ever request the results
21 of any DNA analysis that was run?

22 **A Yes.**

23 **Q** Was he provided -- do you know if he
24 was provided that?

25 **A No.**

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1 **Q** Do you know why he wasn't provided
2 that?

3 **A I have no idea.**

4 **Q** Who -- I'm sorry?

5 **A I know one court, he asked for one**
6 **court date and it wasn't provided at the next**
7 **court date and the judge basically told the**
8 **prosecutor that she wasn't going to go any**
9 **further until fingerprints and the DNA evidence**
10 **were brought to court.**

11 **Q** And who did she direct that inquiry to
12 about the DNA evidence?

13 **A To the prosecutor.**

14 **Q** During this time that you were
15 incarcerated and your criminal matter was
16 proceeding in court, did you ever have any other
17 contact with the Woodbridge Police Department?

18 **A No.**

19 **Q** Do you have any reason to believe that
20 the Woodbridge Police Department didn't send the
21 fingerprint out for analysis in a timely manner?

22 **A Yes.**

23 **Q** What evidence do you have?

24 **A Do I have any evidence?**

25 **Q** Yes.

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1 **A They didn't have it at court which is**
2 **months later.**

3 **Q** But again, that could be for a variety
4 of reasons, could it not?

5 **MR. SEXTON:** Objection. Just can you
6 give a timeframe because when he knew and --
7 there's been discovery in this matter
8 obviously so --

9 **Q** When you were taken to the prison and
10 you had your first court appearance, was there a
11 discussion about fingerprint analysis that was
12 done?

13 **A The first court appearances were only**
14 **about bail.**

15 **Q** Do you know why the fingerprint
16 evidence, as you've indicated, was not provided
17 to your attorney?

18 **A No. My lawyer told me that it was**
19 **lost or mishandled or something and that's all I**
20 **was told.**

21 **Q** And your lawyer -- I'm sorry.

22 Did you have an indication as to who
23 misplaced or lost it?

24 **A The people who the case is against, he**
25 **never got it or he never got any word that the**

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1 **fingerprints or the DNA stuff was put inside the**
2 **system. He never got any stuff.**
3 **Q** And the court had discussed this
4 issue, as well as the DNA, with the prosecutor's
5 office, correct? That's your understanding?
6 **A That's my understanding.**
7 **Q** Do you have anything to establish at
8 this point in time that, you know, that these
9 conferences are taking place on your criminal
10 matter that the Woodbridge Police Department
11 didn't send the fingerprints out for analysis?
12 **A Do I have --**
13 MR. SEXTON: That's asked and
14 answered.
15 MR. RUBENSTEIN: I don't think it was
16 answered.
17 **A I went to court and the courts didn't**
18 **have any of the -- didn't have any fingerprints**
19 **or any DNA, so the judge said she's not going any**
20 **further until they produce it.**
21 **Q** Do you know, if that's true, that
22 there was no fingerprints and there was no DNA --
23 **A Yes.**
24 **Q** I'm not done with the question. I
25 understand that.
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1 Do you have any reason to believe
2 evidentially-wise that that was as a result of
3 the conduct of the Woodbridge PD?
4 **A Yes.**
5 **Q** What evidence do you have to show that
6 the Woodbridge Police Department didn't provide
7 the prosecutor's office with the results of
8 either the fingerprint analysis or the DNA?
9 **A It wasn't in court.**
10 **Q** So it wasn't possible that it was
11 provided and it was misplaced by someone else.
12 MR. SEXTON: Objection to questioning
13 about what's possible.
14 **Q** So if it is shown to you that, in
15 fact, the DNA -- I'm sorry, that the fingerprint
16 analysis was provided to the prosecutor's office,
17 would you agree with me that the police provided
18 it --
19 MR. SEXTON: Objection.
20 **Q** -- and it was lost by someone else?
21 MR. RUBENSTEIN: You're objecting in
22 the middle of the question. He's going to
23 have a problem with answering my question.
24 **A No.**
25 MR. SEXTON: I was starting the
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1 objection so he wouldn't answer. Finish
2 your question.
3 **Q** So it's your belief that the
4 Woodbridge Police Department didn't send the
5 fingerprints out for analysis.
6 MR. SEXTON: You can answer.
7 **A Yes.**
8 **Q** And it's your belief that the
9 Woodbridge Police Department didn't send whatever
10 DNA analysis out to be analyzed.
11 **A Yes.**
12 **Q** Do you have any proof that that is, in
13 fact, true?
14 **A It wasn't in court.**
15 **Q** And it's your position that it had to
16 be the Woodbridge Police Department as opposed to
17 somebody else such as the prosecutor's office or
18 another entity that was responsible for that.
19 **A Yes.**
20 **Q** Do you know for a fact that the
21 Woodbridge Police Department did not send out the
22 fingerprints to be analyzed?
23 **A The prosecutor didn't have it so --**
24 **Q** But that's not what I'm asking you.
25 The fact that the prosecutor's office didn't have
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1 it does not mean that Woodbridge did not send it
2 out to be analyzed.
3 MR. SEXTON: Objection.
4 **Q** So I'll ask again.
5 **A I can only go by what they tell me in**
6 **court.**
7 **Q** Did anyone in court ever tell you that
8 the Woodbridge Police Department didn't send it
9 out, the fingerprints, for analysis?
10 MR. SEXTON: Objection to the argument
11 that counsel placed prior to this question.
12 **Q** You can answer.
13 MR. SEXTON: You can answer.
14 **A My attorney.**
15 **Q** Your attorney told you this?
16 **A My attorney told me that they didn't**
17 **send it.**
18 **Q** So your attorney specifically told you
19 that the Woodbridge Police Department did not
20 send your fingerprints out for analysis.
21 **A Yes, that's what he said. That's why**
22 **they didn't have it at court, said if they didn't**
23 **have it at court, that means the police**
24 **department didn't send it.**
25 **Q** And did anyone ever advise you
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<p style="text-align: right;">70</p> <p>1 specifically that there was DNA, that that also</p> <p>2 was not sent out to be analyzed?</p> <p>3 A Yes, my attorney.</p> <p>4 Q And did he say that it was as a result</p> <p>5 of Woodbridge Police Department or did he say it</p> <p>6 was as a result of someone else's conduct or that</p> <p>7 they didn't get the results back yet?</p> <p>8 A They didn't get the results back yet</p> <p>9 and they were supposed -- Woodbridge Police</p> <p>10 Department was supposed to send it.</p> <p>11 Q Do you know if the fingerprints were</p> <p>12 ever sent out by the Woodbridge Police Department</p> <p>13 to be analyzed?</p> <p>14 A I don't know.</p> <p>15 Q Do you have any knowledge as to</p> <p>16 whether or not the DNA evidence that you've</p> <p>17 alleged, was that ever sent out to be analyzed?</p> <p>18 If you know.</p> <p>19 A As of now, right now? Are we talking</p> <p>20 about as of today?</p> <p>21 Q Yeah, at any point in time.</p> <p>22 A As of today, yes, I know that that</p> <p>23 stuff was sent out.</p> <p>24 Q And do you know when it was sent out,</p> <p>25 the DNA analysis?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">72</p> <p>1 (Whereupon a short recess was taken.)</p> <p>2 Q Mr. Parks, we took a brief break. All</p> <p>3 the same instructions apply and obviously your</p> <p>4 testimony is still under oath.</p> <p>5 MR. RUBENSTEIN: I'm going to ask that</p> <p>6 this be marked as P-2.</p> <p>7 (Woodbridge Police Department ID</p> <p>8 Bureau Suspect Report marked Exhibit P-2 for</p> <p>9 Identification.)</p> <p>10 Q Mr. Parks, I'm going to show you a</p> <p>11 document which for today's purposes we've marked</p> <p>12 as P-2 for Identification, and this has been</p> <p>13 previously provided in discovery to your attorney</p> <p>14 and Bates stamped Parks 000148.</p> <p>15 Have you had a chance to ever see that</p> <p>16 document before?</p> <p>17 A No.</p> <p>18 Q Well, it states on the top of the page</p> <p>19 Woodbridge Police Department ID Bureau Suspect</p> <p>20 Report and it's dated January 26, 2019.</p> <p>21 That was the date that you were arrested by</p> <p>22 the Woodbridge Police, correct?</p> <p>23 A Yes.</p> <p>24 Q And it addresses the fingerprints that</p> <p>25 were taken on that day. Does it state on here</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">71</p> <p>1 A Yeah, when my case went public.</p> <p>2 Q So when was that?</p> <p>3 A Maybe last year.</p> <p>4 Q So it's your belief that the DNA</p> <p>5 analysis wasn't sent out to be analyzed until</p> <p>6 2021.</p> <p>7 A That's when I think -- that's when I</p> <p>8 think it was sent in. I think that's when we</p> <p>9 received note on it, received something on it,</p> <p>10 yes.</p> <p>11 Q And the fingerprint analysis, when was</p> <p>12 that sent out, if at any point in time?</p> <p>13 A I have no idea about that. I know we</p> <p>14 have it now.</p> <p>15 Q Do you know when you received it?</p> <p>16 A I think my attorney sent it to me but</p> <p>17 I don't know exactly when. It wasn't anywhere</p> <p>18 back then.</p> <p>19 Q Do you need to take a break at all?</p> <p>20 A We can take a break.</p> <p>21 MR. RUBENSTEIN: Can we take -- I</p> <p>22 don't know if anybody wants to take a lunch</p> <p>23 or if you want to take ten minutes?</p> <p>24 MS. DVORAK: Off the record.</p> <p>25 (Discussion off the record.)</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">73</p> <p>1 the date that it was submitted for analysis?</p> <p>2 MR. SEXTON: Just before you answer --</p> <p>3 Q If you know.</p> <p>4 MR. SEXTON: -- he says he's never</p> <p>5 seen it so I don't know how you can question</p> <p>6 him about it since he says he's never seen</p> <p>7 it.</p> <p>8 MR. RUBENSTEIN: He knows how to read.</p> <p>9 MR. SEXTON: He's never seen it, how</p> <p>10 can he be questioned about it?</p> <p>11 MR. RUBENSTEIN: Because he knows how</p> <p>12 to read and it says on the form when it was</p> <p>13 submitted and I'm just asking for him --</p> <p>14 MR. SEXTON: So he's going to read</p> <p>15 documents that he's never seen?</p> <p>16 MR. RUBENSTEIN: Yeah. Your client</p> <p>17 has testified that Woodbridge Police</p> <p>18 Department somehow didn't do their job by</p> <p>19 not submitting fingerprints and DNA and this</p> <p>20 document would tend to contradict what he is</p> <p>21 saying.</p> <p>22 MR. SEXTON: So --</p> <p>23 MR. RUBENSTEIN: So I'm asking him if</p> <p>24 he can tell me -- if he can't tell me the</p> <p>25 date that that thing was issued and what day</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

<p style="text-align: right;">74</p> <p>1 it was sent out, then he'll tell me that,</p> <p>2 but I still have a right to ask him.</p> <p>3 Q So looking at this document, is there</p> <p>4 any date on there that says when this was</p> <p>submitted for analysis, the fingerprints?</p> <p>6 A 2/8/19.</p> <p>7 Q And so that was about 10 or 11 days</p> <p>8 after it was taken, correct?</p> <p>9 A Yes.</p> <p>10 Q And does it state when it was</p> <p>11 returned?</p> <p>12 A 2/22.</p> <p>13 Q So according to this document, your</p> <p>14 fingerprints were sent out on February 8th of</p> <p>15 2019 to be analyzed. I should say the</p> <p>16 fingerprints, your fingerprints -- I'm sorry, the</p> <p>17 fingerprints that were taken at the scene of the</p> <p>18 incident at Hampton Inn was sent out on</p> <p>19 February 8th, correct?</p> <p>20 A Yes.</p> <p>21 Q And on February 22nd, it came back.</p> <p>22 A Um-hum.</p> <p>23 MS. DVORAK: I'm sorry, you said</p> <p>24 uh-huh. Was that a yes?</p> <p>25 A Yes, excuse me.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">76</p> <p>1 recognition in this particular matter?</p> <p>2 A Yes.</p> <p>3 Q Do you know how that process works?</p> <p>4 A No.</p> <p>5 Q Do you know if Woodbridge has a</p> <p>6 capability of doing their own facial recognition?</p> <p>7 A No.</p> <p>8 Q So you don't know one way or the other</p> <p>9 whether or not Woodbridge sent a request to some</p> <p>10 other forum to find out about the use of facial</p> <p>11 recognition -- I can't say that at all. I will</p> <p>12 ask the question again.</p> <p>13 You have no knowledge one way or the other</p> <p>14 as to whether the Woodbridge Police Department</p> <p>15 sought the assistance of another agency in the</p> <p>16 use of facial recognition software.</p> <p>17 MR. SEXTON: At any time or --</p> <p>18 Q Yes, at any time.</p> <p>19 A Like right now?</p> <p>20 Q Yeah.</p> <p>21 A I know now. I didn't know then.</p> <p>22 Q So you didn't know at the time of your</p> <p>23 arrest, correct?</p> <p>24 A No.</p> <p>25 Q When did you first become aware?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">75</p> <p>1 MS. DVORAK: Thank you.</p> <p>2 A Can I ask a question?</p> <p>3 Q I don't think your attorney wants you</p> <p>4 to ask any questions.</p> <p>5 MR. SEXTON: You can't -- you can't</p> <p>6 ask questions but you can --</p> <p>7 Q If you have anything you want to add,</p> <p>8 you can certainly add it.</p> <p>9 MR. SEXTON: I just want for the</p> <p>10 record, you know, the witness is relying</p> <p>11 upon the document provided him for his</p> <p>12 answers.</p> <p>13 MR. RUBENSTEIN: Absolutely.</p> <p>14 Q Do you know if any analysis was done</p> <p>15 of any DNA taken at the Hampton Inn that day?</p> <p>16 A No.</p> <p>17 Q Was any DNA taken from you on the day</p> <p>18 that you were arrested?</p> <p>19 A No. My DNA is in the system. I've</p> <p>20 been in prison already.</p> <p>21 Q So the only thing taken was</p> <p>photographs and your fingerprints.</p> <p>23 A Yes.</p> <p>24 Q Do you know if the Woodbridge Police</p> <p>25 Department sought the assistance with facial</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">77</p> <p>1 A When I got my first discovery from my</p> <p>2 criminal attorney.</p> <p>3 Q And what is your understanding of what</p> <p>4 the police, Woodbridge Police, did when it comes</p> <p>5 to facial recognition in this particular matter?</p> <p>6 A I guess they scanned the ID, scanned</p> <p>7 the driver's license that the guy had and came</p> <p>8 back to a comparison to me or something. That's</p> <p>9 all I --</p> <p>10 Q Do you know if Woodbridge themselves</p> <p>11 does the facial recognition or that they send it</p> <p>12 out someplace else?</p> <p>13 A No.</p> <p>14 Q You don't know.</p> <p>15 A No.</p> <p>16 Q Do you know what the results were of</p> <p>17 facial recognition that was run on this ID that</p> <p>18 they had, the Woodbridge Police Department had?</p> <p>19 A Yes, that it was me, I guess, that I</p> <p>20 was the person.</p> <p>21 Q And do you know if prior to your</p> <p>22 arrest or at the time of your arrest whether or</p> <p>23 not the Woodbridge Police Department ever showed</p> <p>24 your photograph to the people at the Hampton Inn?</p> <p>25 Do you know?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 **A** **I don't.**
2 **Q** So you don't know what, if anything,
3 they told the Woodbridge Police.
4 **A** **No.**
 MR. SEXTON: Objection to form. Who
6 told?
7 MR. RUBENSTEIN: I'll ask it
8 differently.
9 **Q** When the -- did the Woodbridge Police
10 ever contact anyone at the Hampton Inn, to your
11 knowledge, and show them a photograph that was
12 yours and they said that's the guy who committed
13 this offense?
14 **A** **Not that I know of.**
15 **Q** Do you know if the Woodbridge Police
16 Department ever asked any of the officers who
17 were involved at the incident at the Hampton Inn
18 whether they ever showed your photograph or that
19 you ever -- were you ever picked out of any
20 particular -- strike that.
21 Were you ever picked out by any of the
22 Woodbridge police officers who were involved at
23 this incident at the Hampton Inn as being the
24 person who did the offense?
25 MR. SEXTON: Objection to form. If
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1 you understand the question, you can answer.
2 **A** **I don't.**
3 **Q** You don't understand the question?
4 **A** **No.**
5 **Q** Okay.
6 MR. SEXTON: Picked out, I myself --
7 objection to the word what he means by
8 picked out.
9 **Q** That's fine.
10 The officers, there were officers who were
11 involved in the incident at the Hampton Inn,
12 correct?
13 **A** **Yes.**
14 **Q** Do you know if any of those officers
15 ever saw a picture of you, ever saw you in person
16 and said you're the guy?
17 **A** **From my knowledge, I think they did.**
18 **Q** Do you know at what point in time this
19 happened?
20 **A** **My criminal attorney told me that they**
21 **did that while I was there.**
 Q At the Woodbridge Police Department?
 A **Yes.**
24 **Q** And --
25 **A** **To my knowledge, he was one of the**
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1 **officers -- they was one of the officers that was**
2 **walking past me.**
3 **Q** And you don't believe that your
4 photograph was ever shown to anyone at the
5 Hampton Inn; is that correct?
6 **A** **I don't know.**
7 **Q** Fair enough.
8 MR. RUBENSTEIN: Just for the record,
9 I'm not going to get into any of the conduct
10 that's alleged against the Middlesex County
11 Correctional. I'm going to leave that to
12 Lori, but I reserve the right to ask any
13 follow-up questions so I go forego asking
14 anything about that.
15 **Q** So you were released from Middlesex
16 County Correctional Facility maybe 10 or 11 days
17 after you were arrested; is that correct?
18 **A** **Yes.**
19 **Q** Were you ever incarcerated again for
20 the incident that occurred on January 26, 2019?
21 **A** **No.**
22 **Q** So you spent about 10 or 11 days in
23 jail.
24 **A** **Yes.**
25 **Q** During the course of the criminal
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1 matter, were you ever provided, either through
2 your attorney or directly, with any of the
3 discovery in that particular matter, discovery
4 being any paperwork or any statements or anything
5 that they were going to use against you?
6 **A** **Yes.**
7 **Q** Did you review that discovery?
8 **A** **Minimally. Went through certain**
9 **points with my attorney that he thought was**
10 **important.**
11 **Q** Do you recall seeing anything from the
12 Hampton Inn about you being picked out as the
13 person who committed the offense?
14 **A** **No.**
15 **Q** Do you recall seeing anything about
16 the police officer or police officers who picked
17 you out as being the person who committed the
18 offense or offenses?
19 **A** **No, just remember my lawyer telling me**
20 **that some of the officers were -- some of the**
21 **officers that were at the scene said I was the**
22 **person when I was at Woodbridge Police**
23 **Department.**
24 **Q** The criminal matter proceeded for
25 about how long before its ultimate conclusion?
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1 **A I think it concluded in '21 or '20.**
2 **I'm not sure exactly when I got the letter that**
3 **said the case was dismissed.**

4 **Q Do you know --**

A I know it went on for over a year.

6 **Q And after a year, thereabouts, after a**
7 **year, the case was dismissed against you.**

8 **A Yes.**

9 **Q Did the prosecutor who was prosecuting**
10 **the matter explain to you or to your -- you know,**
11 **or to the judge why the matter was being**
12 **dismissed?**

13 **A No. I was never called back to court**
14 **or anything. I was just told it was dismissed**
15 **through a letter.**

16 **Q So other than the two times that you**
17 **appeared when you were incarcerated for**
18 **bail-related issues, did you ever appear in court**
19 **for this particular matter?**

20 **A Yes.**

21 **Q About how many times?**

22 **A Like once a month for about six**
23 **months.**

24 **Q So about six times thereafter?**

25 **A Yes, about five or six times.**

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1 **Q And was a plea bargain ever offered to**
2 **you?**

3 **A I think it was five years.**

4 **Q And obviously you elected not to --**
5 **you wanted to go to trial.**

6 **A Yes.**

7 **Q And all you received was a letter from**
8 **the Middlesex County prosecutor's office?**

9 **A Yes.**

10 **Q Saying the matter was dismissed.**

11 **A Dismissed.**

12 **Q No explanation.**

13 **A No explanation or anything.**

14 **Q And you believe this was in 2020?**

15 **A '20 or '21.**

16 **Q Well, the arrest was January 26, 2019.**

17 **A So it had to be in 2020 sometime.**

18 **Q Fair enough.**

19 **The criminal attorney that you retained, Mr.**
20 **Shah, what was his retainer for his services?**

21 **A It was going to be \$10,000 if we went**
22 **to trial and he end up asking for \$5,000 because**
23 **we didn't go to trial. We ended up agreeing on**
24 **\$5,000 because we weren't going to trial.**

25 **Q Did you pay him \$5,000?**

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1 **A He got paid -- he was on a payment**
2 **plan. He got paid \$3,700 and he told me that we**
3 **were done with everything because we never ended**
4 **up finishing because they just dismissed**
5 **everything.**

6 **Q So you paid him the gross amount of**
7 **\$3,700.**

8 **A Yes.**

9 **Q Did you pay by check, did you pay in**
10 **cash, did you pay by credit card?**

11 **A Cash.**

12 **Q Do you have any receipts to establish**
13 **that you paid him \$3,700?**

14 **A No.**

15 **Q Because I believe that in your answers**
16 **to interrogatories you asserted that it was**
17 **\$5,000 that you had --**

18 **A That was the amount that we agreed --**
19 **that we agreed on.**

20 **Q But you didn't pay him the full --**

21 **A I never finished paying the whole**
22 **\$5,000 because the case got -- in the midst of**
23 **that time, one court date we were told not to**
24 **come back until they had the evidence and then we**
25 **weren't back in court for about another six**

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1 **months. Actually I never went back to court. I**
2 **used to pay him every court date, so we never**
3 **went back to court. It was dismissed through a**
4 **letter.**

5 **Q Other than the \$3,700 you paid to your**
6 **criminal attorney, have you had to expend any**
7 **monies for either the prosecution -- the defense**
8 **of your criminal matter or for any other reasons**
9 **related to this incident?**

10 **A Yes, getting back and forth to court,**
11 **taking days off of work to get to court, taking**
12 **days off of work to go back and forth to the**
13 **pretrial intervention program every week so**
14 **that's --**

15 **Q Sorry. You said going back and forth**
16 **to the pretrial intervention program every week?**

17 **A Yes, I had to go -- at first it was**
18 **twice -- first it was every week and then it went**
19 **up to twice a month where I had to take a day off**
20 **from work twice a month. Instead of taking a day**
21 **off of work every week, then it went from every**
22 **week to every two weeks where I had to go twice a**
23 **month and then it went up to -- I think it went**
24 **up to once a month like the last month or two.**

25 **Q Are you -- have you been able to**

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1 calculate how much you believe you've had to
2 expend or have lost as a result of this at this
3 point in time?
4 **A No, I've never sat down and actually**
5 **tried to calculate it. Calculate the days that I**
6 **was arrested that I had to miss work, every day I**
7 **had to take off to go to court, I haven't sat**
8 **down and actually calculated everything.**
9 **Q** Well, do you understand that if you're
10 seeking that amount of money back against either
11 Woodbridge or any of the other defendants, you
12 would need to provide us with a calculation of
13 that amount?
14 **A Yes.**
15 **MR. SEXTON:** Objection to the form.
16 He's not a lawyer.
17 **MR. RUBENSTEIN:** I just asked him if
18 he knew.
19 **Q** So as you sit here today, you're
20 unable to tell me how much you believe that you
21 are out of pocket as a result of this incident.
22 **A Yes.**
23 **MR. SEXTON:** One, two, three, answer.
24 **Q** You have to answer the question. You
25 answered in the midst of my question.

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1 **A I thought you were done.**
2 **Q** That's okay. Again, the court
3 reporter is trying to get everything down, so if
4 you can answer it again, I know what your answer
5 is, but if you can answer it again, I appreciate
6 it.
7 **A Yes.**
8 **Q** Did you seek any medical treatment as
9 a result of this incident?
10 **A No.**
11 **Q** You have not spoken -- is it fair to
12 say that you have not spoken to any therapist,
13 any counselor, psychiatrists, psychologists, at
14 all about this incident?
15 **A No.**
16 **Q** Do you take any medications as a
17 result of this incident?
18 **A No.**
19 **Q** Do you have --
20 **A I don't believe in taking any type**
21 **of -- I don't take any prescribed medication. I**
22 **don't take any pills or anything.**
23 **Q** Do you have any intention of going to
24 seek the assistance of a therapist or a counselor
25 of any type as a result of this incident?

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1 **A I've had intentions, yes.**
2 **Q** I'm sorry?
3 **A I've had intentions, yes.**
4 **Q** Do you have any appointments
5 scheduled?
6 **A Not at the time.**
7 **Q** Have you ever spoken to any Woodbridge
8 police officer about this incident other than
9 what you've described up until this point in time
10 using today as a timeframe?
11 **A No.**
12 **Q** How are you feeling at the present
13 time about what happened, your arrest, the
14 charges against you? Ultimately they were
15 dismissed. And I don't mean how you're feeling
16 today but overall, how have you felt about this
17 incident?
18 **A Overall it's been a very stressful**
19 **moment, very stressful time. Like I've been in**
20 **trouble before but for things that I did so now**
21 **for being in trouble for something that I didn't**
22 **do that I had no knowledge about, it's like**
23 **changed my outlook on police. Like I'm**
24 **definitely afraid of them now and I try not -- I**
25 **don't want any type of police contact. I try to**

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1 **stay as far away from them as possible because I**
2 **just know now that I don't have to do anything to**
3 **actually be charged or be in trouble for**
4 **anything. It's just scary, man.**
5 **Q** Well, you said they've changed your
6 attitude about the police. What was your
7 attitude about the police prior to January 26th
8 of 2019?
9 **A I never had a problem with them. If I**
10 **did something wrong and I was in trouble, I got**
11 **what I deserved because they did their job, but**
12 **now looking at it, I just look at it now that**
13 **they can do anything they want to you because of**
14 **their job. Because they have a badge, they can**
15 **do whatever they want to you and it's nothing**
16 **that -- pretty much nothing nobody can do about**
17 **it. You're at their whim until -- unless**
18 **somebody believes you. Now, now like I'm deathly**
19 **afraid of them.**
20 **Q** So prior to this incident, you were
21 arrested and convicted, as best you can recall,
22 one, two, three, four, five times.
23 **A Yes.**
24 **Q** Since this, you haven't had any
25 incidents with the police.

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<p style="text-align: right;">90</p> <p>1 A None.</p> <p>2 Q Do you feel that this particular</p> <p>3 incident on January 26th of '19 has played any</p> <p>4 role in why you haven't had any interactions with</p> <p>5 the police at all?</p> <p>6 A Yes, actually I haven't had any</p> <p>7 contact with them since before this incident. I</p> <p>8 came home from jail, I was getting my life -- I</p> <p>9 got my life in order. I've been working for the</p> <p>10 last -- since 2016 nonstop, just been doing the</p> <p>11 right thing. I was younger when I was getting in</p> <p>12 a lot of trouble and as I got a little bit older,</p> <p>13 I just got myself together.</p> <p>14 Q Well, your last encounter with the</p> <p>15 police was 2018. Do you remember if it was the</p> <p>16 beginning of the year, the tail end of the year,</p> <p>17 middle?</p> <p>18 A I can remember the incident. It was</p> <p>19 the wintertime. I went and bought two bags of</p> <p>20 marijuana to smoke and they were watching the guy</p> <p>21 who I bought the marijuana off. So it was</p> <p>22 wintertime, it was cold.</p> <p>23 Q Is there anything else about how</p> <p>24 you're feeling -- and, again, I don't mean today,</p> <p>25 I mean in general.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">92</p> <p>1 what happens to me when I see them. But before</p> <p>2 that, I didn't do anything. If I did something</p> <p>3 wrong, I dealt with the consequences, but I was</p> <p>4 never scared of police. Like when I see police</p> <p>5 now, I see police, I'm scared.</p> <p>6 Q So you never experienced any of the</p> <p>7 anxiety you just described during the time period</p> <p>8 before 2019.</p> <p>9 A No.</p> <p>10 Q Even when you were being -- you know,</p> <p>11 possibly when you were being arrested for, you</p> <p>12 know, possession and you were serving -- you</p> <p>13 know, you could possibly go to jail, you didn't</p> <p>14 have any anxiety about this.</p> <p>15 MR. SEXTON: Asked and answered. You</p> <p>16 can answer.</p> <p>17 A No, not at the time because I was --</p> <p>18 like I said, I was doing something illegal, I was</p> <p>19 doing something wrong so I knew the consequences</p> <p>20 of my actions so I didn't feel any type of way at</p> <p>21 that time because I knew that there was a</p> <p>22 consequence that I could go to jail because of</p> <p>23 what I was doing. But when I wasn't doing</p> <p>24 anything wrong and I'm doing the right thing and</p> <p>25 I'm not doing anything wrong, there shouldn't be</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">91</p> <p>1 A That's like why I smoke marijuana,</p> <p>2 like anxiety right now. Just kind of one of the</p> <p>3 things, that's like my personal medication, like</p> <p>4 I smoke marijuana and -- I get anxiety, that's</p> <p>5 kind of how I calm down.</p> <p>6 Q Do you get anxiety over this incident?</p> <p>7 A Yes.</p> <p>8 Q How often would you say you get</p> <p>9 anxiety over this incident?</p> <p>10 A Like it happens like if cops get</p> <p>11 behind me if I'm driving and a cop just pulls</p> <p>12 behind me, he's not about to pull me over, we're</p> <p>13 going in the same direction. He's behind me,</p> <p>14 automatically I'm just like drenched in sweat</p> <p>15 everywhere, like I'm just soaking wet. Like I</p> <p>16 can't help it. You know, even though I know I</p> <p>17 didn't do anything, it's nothing I can do about</p> <p>18 it, it just happens. If I'm walking down the</p> <p>19 street and there's a cop on the same side of the</p> <p>20 street with me, I'm crossing the street, and it's</p> <p>21 nothing that I could do about it. I just</p> <p>22 automatically get tense, sweating, and it's like</p> <p>23 I didn't do that before. I do it now because</p> <p>24 something happened to me where I didn't do</p> <p>25 anything wrong and that's where -- now that's</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">93</p> <p>1 a consequence of me walking down the street. So</p> <p>2 at the time, no.</p> <p>3 Q Is there anything else in terms of how</p> <p>4 you're feeling that you haven't told me that you</p> <p>5 wish to tell me other than being anxious and as</p> <p>6 you've described to me so far this morning or</p> <p>7 this afternoon?</p> <p>8 A Even as far as like being inside this</p> <p>9 environment, I still get -- like it just makes me</p> <p>10 extra nervous, like just being inside this</p> <p>11 environment right now. I don't know if you've</p> <p>12 seen how jumpy I got earlier where we just were</p> <p>13 starting, it's just because of being in this</p> <p>14 environment, it's like it's never -- it's always</p> <p>15 been a sketchy thing so like this time it was</p> <p>16 like it kind of got worse since this incident</p> <p>17 because, as I stated before, before I knew I did</p> <p>18 something so I kind of knew I had consequences</p> <p>19 of -- I had drugs, this is my consequence, I knew</p> <p>20 I'm going through my consequences, but this time</p> <p>21 it was different because it's like I really had</p> <p>22 no clue on what was going on. I just was like --</p> <p>23 I felt like I was like in outer space, like out</p> <p>24 of body experience because I'm here but it's like</p> <p>25 I didn't do what I was being charged -- I didn't</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 do what I was being charged for, I didn't do
2 anything that was going on so that was like -- it
3 made me feel very different about the whole -- it
4 made my aspect about the court system totally
5 different where like I'm totally afraid of being
6 involved in the system or any type of way now.

7 Q Anything further?

8 A That's it.

9 Q Other than feeling anxious --

10 A Depressed.

11 Q You feel depressed. And but you have
12 not sought any treatment or any assistance for
13 your -- for your feeling depressed.

14 A I told you, I self-medicate. I don't
15 take any pills or anything like that. I've been
16 through a lot of drugs, I've been through drug
17 programs, drug treatment programs. I don't
18 believe marijuana is a drug in my mind. It's
19 being prescribed and I also, I have an
20 appointment at my doctor now to set up trying to
21 get a marijuana card to go about it the right way
22 for me with the anxiety and stuff.

23 Q And I'm not talking about medication
24 only. I'm talking about talking to someone, you
25 know, and describing how you feel to that person,

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1 whether it's a counselor or minister or a
2 therapist of some kind.

3 A I speak to people about how I feel. I
4 don't think it has to be a therapist. I don't
5 believe in going to tell somebody I don't know
6 about my problems. Like if I'm going to talk to
7 someone, I'm going to talk to --

8 Q Who do you talk to?

9 A I talk to my old football coaches,
10 family members. My father is like the person
11 that I usually talk to the most.

12 Q And describe for me what you talk to
13 them about.

14 A Talk to them about just day-to-day
15 life, how the situation occurred, still how --
16 still how today like I'm still afraid of police,
17 how the conversation I have to have with my son
18 about police. The conversation I have with my
19 kids about how to deal with police, how to talk
20 to officers. A lot of stuff that you have to
21 deal with after the situation that's just
22 difficult.

23 MR. RUBENSTEIN: Could you have this
24 marked as P-3?

25 (Photocopy of driver's license marked
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1 Exhibit P-3 for Identification.)

2 Q Going to show you what's been marked
3 as P-3 and it's allegedly a license out of the
4 State of Tennessee.

5 The photograph that's in that picture, is
6 that you?

7 A No.

8 Q Do you know who that is?

9 A No.

10 Q You don't have any clue who that
11 person is.

12 A No.

13 Q Thank you.

14 The Woodbridge Police during this incident
15 that occurred at the Hampton Inn, do you know if
16 they were able to obtain any materials or like,
17 you know, let's just say they picked up a water
18 bottle and a shoe. Do you know if they ever sent
19 that out to be tested?

20 A I have no idea.

21 Q As you sit here today, you don't know?

22 A As of today, I know they sent it out.

23 Q Do you know what the results were?

24 A That it wasn't me.

25 Q Do you know when that was sent out?

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1 A No.

2 Q Do you know if it was sent out in --
3 at the onset of this matter, you know, close to
4 January 26, 2019, was it sent out two years
5 later, three years later?

6 A I have no idea.

7 Q I'm going to show you what's been
8 marked as P-1 for Identification. Have you ever
9 seen that document before today?

10 A Yes, I think I seen this. My lawyer
11 sent -- my lawyer sent it to me. I went over it.

12 Q Do you know that that's the current
13 Complaint that has been filed against the
14 Woodbridge and the Middlesex County prosecutors
15 as well as the correctional facility? Your
16 attorney has filed a motion to amend it but
17 that's the current Complaint in this matter.

18 A Okay.

19 Q Is that your understanding of what
20 that document is?

21 A Okay.

22 Q I'm asking you.

23 A Yes.

24 Q Good.

25 Did you have an opportunity to review this

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<p style="text-align: right;">98</p> <p>1 document before it was filed with the court?</p> <p>2 A I go over them, yes. My attorney</p> <p>3 sends them to me.</p> <p>4 Q And having had an opportunity to</p> <p>5 review it before it was filed with the court, is</p> <p>6 it your opinion that everything in here is</p> <p>7 accurate to the best of your knowledge?</p> <p>8 A To the best of my knowledge, yes.</p> <p>9 Q Just trying to think about how to word</p> <p>10 this.</p> <p>11 Do you believe that your race played any</p> <p>12 factor in this case?</p> <p>13 A Yes.</p> <p>14 Q What is your belief?</p> <p>15 A What is my belief?</p> <p>16 Q Yes.</p> <p>17 A I believe that my race and my</p> <p>18 background was the reason that they came and</p> <p>19 arrested -- that they went about it so fast.</p> <p>20 Q When you say your background, are you</p> <p>21 referring to your other arrests --</p> <p>22 A Yes.</p> <p>23 Q -- and convictions?</p> <p>24 And you believe that your race was a factor</p> <p>25 in this particular matter for that reason.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">100</p> <p>1 Woodbridge, did it come back with a high</p> <p>2 probability match?</p> <p>3 A High probability doesn't mean nothing.</p> <p>4 It wasn't me.</p> <p>5 Q Again, I'm asking you a question. You</p> <p>6 just have to answer my question. Your opinion is</p> <p>7 not what I'm asking. I'm asking --</p> <p>8 A It's not me.</p> <p>9 MR. SEXTON: Wait, you got to take a</p> <p>10 deep breath and you have to wait till Mr.</p> <p>11 Rubenstein finishes the question and then</p> <p>12 just take two seconds for the reporter's</p> <p>13 sake and answer the question he asked and</p> <p>14 not the question you think he should have</p> <p>15 asked but the question right before you.</p> <p>16 Just answer it and nothing more. If you can</p> <p>17 do that, that will help the record.</p> <p>18 MR. RUBENSTEIN: Can you read back my</p> <p>19 original question?</p> <p>20 (Whereupon the following question was</p> <p>21 read back by the reporter:</p> <p>22 "Question: The facial recognition</p> <p>23 that was run on you not by Woodbridge but</p> <p>24 that was requested of Woodbridge, did it</p> <p>25 come back with a high probability match?")</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">99</p> <p>1 A Yes.</p> <p>2 Q Other than your opinion, do you have</p> <p>3 anything to support your -- what you're claiming?</p> <p>4 A Usually they wait till the</p> <p>5 fingerprints and the DNA stuff come back before</p> <p>6 they go get somebody. If they would have waited</p> <p>7 another week or two, as it says right here on</p> <p>8 this paper which it says -- if they had waited</p> <p>9 another two weeks, they would have had the whole</p> <p>10 proof right there to show that. They wouldn't</p> <p>11 have had to come get me. It would have told them</p> <p>12 I wasn't the person. If they would have waited</p> <p>13 to the 8th when the DNA -- when the fingerprints</p> <p>14 came back, it would have showed that I wasn't the</p> <p>15 person. So how do you arrest somebody before</p> <p>16 your fingerprints come back?</p> <p>17 Q So your familiarity with the system is</p> <p>18 that police don't arrest a suspect until after</p> <p>19 fingerprint evidence comes back.</p> <p>20 A You question the suspect. You don't</p> <p>21 arrest them.</p> <p>22 Q Under no circumstances.</p> <p>23 A I was arrested without any proof.</p> <p>24 Q The facial recognition that was run on</p> <p>25 you not by Woodbridge but that was requested of</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">101</p> <p>1 A Yes.</p> <p>2 MR. SEXTON: Objection. Timeframe</p> <p>3 when?</p> <p>4 Q Did it come back with a high</p> <p>5 probability match before you were arrested?</p> <p>6 A Yes.</p> <p>7 Q And you don't know if they showed your</p> <p>8 photograph prior to being arrested to anyone at</p> <p>9 the Hampton Inn.</p> <p>10 A I don't know.</p> <p>11 Q Would it surprise you to find out that</p> <p>12 there was someone at the Hampton Inn who said it</p> <p>13 was you?</p> <p>14 MR. SEXTON: Objection to form.</p> <p>15 A Yes.</p> <p>16 Q So it would surprise you?</p> <p>17 A Um-hum.</p> <p>18 MS. DVORAK: Is that a yes?</p> <p>19 THE WITNESS: Yes.</p> <p>20 MS. DVORAK: Thank you.</p> <p>21 Q And this would be prior to your arrest</p> <p>22 that someone at the Hampton Inn said that that</p> <p>23 was --</p> <p>24 MR. SEXTON: Objection. He said he</p> <p>25 doesn't know about it, he would be</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 surprised, so how are you asking him for
2 confirmation that this would be before
3 because he doesn't know about it. He just
4 answered it so --
MR. RUBENSTEIN: I understand.
6 Q Now, please, just answer my question.
7 MR. SEXTON: That's not a question.
8 MR. RUBENSTEIN: It is.
9 MR. SEXTON: It's not a question.
10 He's not going to answer.
11 MR. RUBENSTEIN: You're instructing
12 him not to answer?
13 MR. SEXTON: There's not a question.
14 Q Mr. Parks, when you were arrested by
15 the Woodbridge Police Department, would you agree
16 with me that they had the facial recognition
17 software -- the facial recognition results?
18 MR. SEXTON: Asked and answered. You
19 can answer.
20 A **Would I agree?**
21 Q Yes.
22 A **Yes.**
23 Q And would you agree with me --
24 A **Hold on. I didn't know that they had**
25 **that when they arrested me. So obviously no.**
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1 Q As you sit here now, do you understand
2 that they had the results of the facial
3 recognition analysis that was done on you prior
4 to your arrest?
5 A **Yes.**
6 Q And as you stated, you don't know
7 whether or not the Woodbridge Police showed your
8 photograph to anyone at the Hampton Inn.
9 MR. SEXTON: Asked and answered. You
10 can answer for the fourth time.
11 Q You don't know.
12 A **No.**
13 Q And you believe that an officer whose
14 name you don't know said that you were the person
15 prior to be taken off to the county jail.
16 MR. SEXTON: Asked and answered. You
17 can answer.
18 A **Yes.**
19 MR. RUBENSTEIN: Excuse me for one
20 second.
21 (Whereupon a short recess was taken.)
22 Q Mr. Parks, did you ever become aware
23 that the police had taken something that could be
24 tested for DNA such as a water bottle and sneaker
25 in this particular matter?
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1 A **Yes.**
2 Q And I believe you said earlier that
3 your attorney had indicated that the town or the
4 prosecutor never got the results of that DNA
5 during the course of your criminal matter.
6 A **At that time, they didn't have it**
7 **while we were going back and forth to court.**
8 Q Do you know when Woodbridge or if
9 Woodbridge sent that DNA out to be tested?
10 A **No.**
11 Q So you would have no knowledge as to
12 when, if they did send it out, when the results
13 came back.
14 A **Yeah, I would not know that.**
15 Q Did anyone ever discuss with you that,
16 for lack of a better term, that it's customary
17 that DNA could take seven, eight or nine months
18 to get back?
19 A **No.**
20 MR. RUBENSTEIN: Could you mark this?
21 I believe it's P-4.
22 (DNA Laboratory Report marked Exhibit
23 P-4 for Identification.)
24 Q Have you ever seen that document
25 that's marked as P-4 for Identification before
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1 today?
2 A **No.**
3 Q Do you have any idea what that
4 document is by looking at it today?
5 A **No.**
6 Q Just for the record, it says on the
7 top left-hand box, it says DNA Laboratory Report.
8 A **Yes.**
9 Q And maybe a third of the way down it
10 discussed -- it has a code number 1-1-1 and it
11 addresses a water bottle?
12 A **Yes.**
13 Q And underneath it says 2-1-1 and it
14 talks about a -- I believe it says a sneaker?
15 A **Yes.**
16 Q And does it have a date on the
17 right-hand side where it says the date of the
18 report?
19 A **10/18/19.**
20 Q Does the -- does this indicate in any
21 way the date that it was sent out to be analyzed,
22 do you know?
23 A **No.**
24 Q The 10/18/19 date is about
25 approximately eight to nine months after you were
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1 arrested, correct?

2 **A Yes.**

3 **Q** And this report, does it indicate what

4 the results were at all, do you know?

A No.

6 **Q** So no, you don't know or no, it

7 doesn't?

8 **A It just says result obtained. Results**

9 **obtained where it says comments.**

10 **Q** And that reading a little further down

11 in the middle of the page, does it say what the

12 results were?

13 MR. SEXTON: Objection. He's never

14 seen it before. He's reading.

15 MR. RUBENSTEIN: Yeah.

16 **A Yes, says nothing was concluded, they**

17 **needed -- said they needed a reference, a body --**

18 **a DNA to reference it to which would show proof**

19 **that it couldn't be me because I've been in**

20 **prison and my DNA has been in the system since**

21 **2008.**

22 **Q** And the date of this was about eight

23 and a half months after your arrest.

24 **A Yes.**

25 **Q** But you don't know when this DNA was

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1 sent out --

2 **A No.**

3 **Q** -- for analysis.

4 MR. SEXTON: Asked and answered.

5 **Q** The officer who you've named in this

6 lawsuit is Andrew -- I'll spell his last name --

7 L-y-s-z-k. Do you know what his involvement in

8 this case is?

9 **A No.**

10 **Q** Do you know if he was the officer who

11 said you were the guy?

12 **A No.**

13 **Q** Do you know if Officer Lyszk used

14 excessive force against you?

15 **A Was he one of the officers who**

16 **questioned me?**

17 **Q** I'm not here to answer --

18 MR. SEXTON: Objection. Wait, wait,

19 wait. Let me put my objection. He stated

20 that he doesn't know who the officer is so

21 he can't answer any questions about him

because he doesn't know who he is.

MR. RUBENSTEIN: Then he can tell me

that.

25 **A That's what I was just trying to tell**

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1 **you, that I don't know -- I can't answer the**

2 **question if I don't know who he is.**

3 **Q** So you have no knowledge of what

4 Officer Lyszk's involvement in this particular

5 matter is or was?

6 **A I'm asking you which officer was**

7 **Officer Lyszk, if he was one of the officers in**

8 **the room that questioned me.**

9 MR. SEXTON: Just answer the question

10 and the question -- you've already answered

11 it but you can answer it for the third time.

12 So the question was, if you want her to read

13 it back or restate it.

14 MR. RUBENSTEIN: Please do.

15 MR. SEXTON: Just listen and then

16 respond to the question, please.

17 (Whereupon the following question was

18 read back by the reporter:

19 "Question: So you have no knowledge

20 of what Officer Lyszk's involvement in this

21 particular matter is or was?")

22 **A No.**

23 **Q** Thank you.

24 MR. RUBENSTEIN: I'm going to have

25 this marked as P-5.

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1 (Certification marked Exhibit P-5 for

2 Identification.)

3 **Q** During the course of this matter that

4 we're here for today, a series of written

5 questions were sent to your attorney that we

6 asked that you provide answers to. Those are

7 called interrogatories. Attached to our

8 interrogatories that were sent to your attorney's

9 office was a certification page.

10 Showing you what's been marked P-5 for

11 Identification, is that your signature?

12 **A Yes.**

13 **Q** And the date on there is what?

14 **A 2/2/2022.**

15 **Q** And is that the date you signed that

16 certification?

17 **A Yes.**

18 **Q** And this certification indicates that

19 the statements contained -- I'm not reading it

20 verbatim, but the gist of it is that the

21 statements contained in your answers to

22 interrogatories are true and correct to the best

23 of your knowledge. Is that true?

24 **A Yes.**

25 **Q** Did you review these answers to

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1 interrogatories before they were sent out on your
2 behalf?

3 **A Yes.**

4 MR. RUBENSTEIN: I believe that I'm
done. I'm just going to wait for Lori to --
6 (Whereupon a recess was taken for
7 lunch.)

8 CROSS-EXAMINATION BY MS. DVORAK:

9 **Q** Good afternoon. My name is Lori
10 Dvorak. I represent the Middlesex County
11 Department of Corrections in this matter and it's
12 my turn to ask you some questions. The same
13 rules that Mr. Rubenstein gave you earlier
14 continue to apply. Do you understand that?

15 **A Yes.**

16 **Q** If you don't understand my question,
17 most important instruction, I can't emphasize it
18 enough, if my question doesn't make sense, tell
19 me, hey, I have no idea what the hell you're
20 talking about and I will be happy to repeat it or
21 rephrase it, but if you answer a question, I'm
22 going to assume two things; first of all, that
23 you understood my question and, second, that
24 you're giving me a truthful response. Do you
25 understand that?

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1 **A Yes.**

2 **Q** Again, we have to be very careful with
3 the talking over each other or the court reporter
4 is going to give us both dirty looks until we
5 learn to wait until the question and answer are
6 done. Do you understand that?

7 **A No problem.**

8 **Q** Again, if at any time you need a
9 break, I know it's a little warm out, we've been
10 here for a while, just let me know, okay?

11 **A No problem.**

12 **Q** We started off this morning, there
13 were some questions about your prior contacts
14 with law enforcement and I want to follow up with
15 some questions. I'm just setting the tone for
16 that area.

17 **A Okay.**

18 **Q** Your first arrest was out of Paterson,
19 correct?

20 **A Yes.**

21 **Q** And it was possession of CDS, correct?

22 **A Yes.**

23 **Q** And you said that was a probationary
24 sentence that you received?

25 **A Yes.**

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1 **Q** Were you incarcerated at all during
2 the course of that arrest?

3 **A Probably like two days.**

4 MR. SEXTON: Wait until you answer.

5 **Q** Where were you incarcerated?

6 **A Passaic County.**

7 **Q** In '08 when you were charged with
8 possession with intent, your sentence was three
9 years and it was with an 18-month stip, correct?

10 **A Yes.**

11 **Q** And the stip is a period of parole and
12 eligibility that we're talking about, correct?

13 **A Yes.**

14 **Q** And you, in fact, served the
15 18 months?

16 **A Yes.**

17 **Q** Did you get parole on your first
18 attempt?

19 **A Yes.**

20 **Q** Where did you serve your time, both
21 county and state, for the '08 conviction?

22 **A Passaic County and Annandale**
23 **Mountainview Youth Correction Facility.**

24 **Q** About how much time was in Annandale
25 and how much time was in Passaic County, if you

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1 recall? Just an estimate.

2 **A Probably a couple of months in the**
3 **county and most of the time in Annandale.**

4 **Q** The '06 conviction, that was a plea on
5 your part?

6 **A Yes.**

7 **Q** The '08 conviction, was that also a
8 plea?

9 **A Yes.**

10 **Q** And '10 or '11, you received another
11 charge that was probation, correct?

12 **A Yes.**

13 **Q** And that was out of Paterson as well?

14 **A Yes.**

15 **Q** And did you serve any jail time
16 regarding that charge?

17 **A No. Maybe a day or so waiting for**
18 **bail.**

19 **Q** And in '12, you were charged again
20 possession with intent to distribute out of
21 Paterson, correct?

22 **A Yes.**

23 **Q** And that was a six-year sentence with
24 a three-year stip?

25 **A Yes.**

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1 Q And, again, we're talking three-year
2 period of parole and eligibility, correct?
3 A Yes.
4 Q Where did you serve that sentence?
A Garden State Correction Facility.
6 Q And I assume there was some
7 preliminary time or pre-sentence time in --
8 A In county, yes.
9 Q In county.
10 The last charge for the possession of
11 marijuana, was that heard in superior court or
12 municipal court?
13 A Municipal.
14 Q Was there any jail time for that?
15 A No.
16 Q Have you ever served more than a few
17 days in county at a time?
18 A Yes.
19 Q When was that?
20 A I can't tell you.
21 Q Just looking at the way the charges
22 went, your probation from 2010, 2011, was that
23 violated and you got resentenced when you got
24 charged with the indictable?
25 A Yes.

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1 Q And was your final sentence, I think
2 it was a five over three for the probation
3 violation once you were resentenced, correct?
4 A Yes.
5 Q And was that concurrent with the
6 possession with intent charge?
7 A Yes.
8 Q Let's talk about Mountainview for a
9 minute.
10 When you were there, you were transferred
11 from Passaic County after you pled and your
12 sentencing to Mountainview, correct?
13 A You go to CRAF first and then you go
14 to Mountainview.
15 Q And CRAF stands for central something
16 reception facility, correct?
17 A Yes.
18 Q And that's sort of when they decide
19 what place you're going to be lodged at long-term
20 in the state system, correct?
21 A Yes.
22 Q Keeping CRAF aside for a minute, you
23 were at Mountainview for the majority of that
24 sentence, correct?
25 A Yes.

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1 Q When you were at Mountainview, did you
2 have a job while you were there?
3 A Yes.
4 Q What was your job?
5 A I had a few different jobs. Yard
6 detail, they give you -- I forgot what it's
7 called -- common area cleaning.
8 Q Did you attend any educational
9 programs while you were at Mountainview?
10 A No.
11 Q What is your educational background,
12 by the way?
13 A Completed high school.
14 Q And what year did you complete high
15 school?
16 A 2006.
17 Q Was that a graduation or a GED?
18 A Graduation.
19 Q While you were at Mountainview, did
20 you catch any institutional charges?
21 A No.
22 Q Were you housed in the medical unit
23 for any period of time while you were at
24 Mountainview?
25 A No.

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1 Q Were you injured in any way while you
2 were at Mountainview?
3 A No.
4 Q Let's move forward to Garden State
5 and ask you the same types of questions.
6 Did you have any jobs while you were at
7 Garden State?
8 A Yes, I was a tier rep. I ran the
9 tier.
10 Q What did that entail?
11 A Usually I worked for the correction
12 officer and I got the water, cleaning up, do
13 all -- I go do whatever she tells me to do for
14 the day on the unit.
15 Q And that could include things like
16 cleaning up or providing some sort of assistance,
17 correct?
18 A Yes.
19 Q About how long did you do that for?
20 A Like two years.
21 Q Did you attend any educational courses
22 while you were at Garden State?
23 A No.
24 Q Did you catch any institutional
25 charges while you were at Garden State?

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1 **A No.**
2 MR. SEXTON: What does that mean,
3 catch any institutional charges?
4 MS. DVORAK: Was he charged
5 institutionally with any violations of the
6 institution's rules and regulations.
7 **A No.**
8 **Q** Since the date of arrest in the
9 incident that brings us here today, have you been
10 arrested for any other reason?
11 **A No.**
12 **Q** Your date of birth you said was
13 9/11/1987?
14 **A Yes.**
15 **Q** And you've never gone by any other
16 names other than Nijeer Parks, correct?
17 **A Yes.**
18 **Q** In representing the adult corrections
19 center, I have some records from them and I just
20 want to double-check on some dates.
21 I have in the records, I'll represent to you
22 that it looks like you were arrested on
23 February 5, 2019 which is a Tuesday. Do you have
24 any reason to dispute that?
25 **A No. I thought it was a Wednesday**
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1 **but --**
2 **Q** I'm going to represent that checking
3 my iPhone, February 5, 2019 is a Tuesday.
4 **A Okay.**
5 **Q** And my records indicate that on
6 February 13, 2019, you were released on a
7 Wednesday. Does that sound about right?
8 **A Sounds right.**
9 **Q** So you were incarcerated for eight
10 days?
11 **A Eight? I thought it was more than**
12 **that.**
13 **Q** Well, do you have any reason to doubt
14 the records of the facility?
15 **A No.**
16 **Q** We were talking 10 or 11 before. I
17 just want to clarify.
18 **A Yeah, that's what I thought it was.**
19 **Q** That's fine. That's why I'm doing
20 this.
21 **A No problem.**
22 **Q** So Woodbridge PD transported you to
23 the county correctional facility, correct?
24 **A I think it was sheriff's officers came**
25 **and picked me up and took me to the county.**
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1 **Q** So it was corrections officers -- I'm
2 sorry, sheriff's officers who brought you in --
3 **A Corrections, somebody came to the**
4 **Woodbridge thing and they took me there.**
5 **Q** I'm going to represent to you that
6 corrections officers don't do transports. So
7 with that, you're certain it was not Woodbridge
8 people who transported you, correct?
9 **A Yeah, I'm sure.**
10 **Q** It was some other agency other than
11 Woodbridge that brought you to the county
12 facility, correct?
13 **A Yeah, it was someone else.**
14 **Q** When you were transported, were you
15 the only prisoner in the vehicle?
16 **A Yes.**
17 **Q** And I take it there were two officers
18 in the vehicle from whatever agency?
19 **A Yes. I'm trying to -- I'm actually**
20 **trying to remember who picked me up.**
21 **Q** And you left straight from Woodbridge
22 headquarters, correct?
23 **A Yes.**
24 **Q** Do you recall approximately what time
25 of day you left Woodbridge headquarters?
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1 **A No. I went there maybe like nine or**
2 **ten o'clock in the morning, but it was like an**
3 **all-day process so I have no idea what time I**
4 **left.**
5 **Q** Were there any problems with your
6 transport?
7 **A No, not that I remember.**
8 **Q** When you got to the adult correction
9 center, did you come in through the Sally port
10 entrance. Do you know what I'm talking about?
11 **A I came in where I guess they bring all**
12 **the inmates at.**
13 **Q** If I described to you a garage door
14 opening, driving into a concrete room with the
15 door closing behind you and then you get out of
16 the vehicle, does that sound similar to where you
17 came in?
18 **A Yes.**
19 **Q** And then you were brought from there
20 in through a series of doors across a short
21 hallway and in through another door into a
22 receiving area.
23 **A Yes.**
24 **Q** Once you got inside the receiving
25 area, what happened?
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<p style="text-align: right;">122</p> <p>1 A I get inside the receiving area. The 2 people who brung me, they started talking to the 3 correction officers. I seen them turn around 4 pointing at me and I overhear them saying 5 something about with the cops, something about 6 with some officers, and he turned around, he 7 pointed in my direction and he turned back 8 around, continued talking. 9 Q In looking at a picture in your mind 10 for a moment, do you have any recollection of 11 whether the officers that brought you in on the 12 transport were wearing the same uniforms as the 13 person standing behind the desk? 14 A They -- actually I think they were 15 Middlesex County police officers who brung me but 16 just not the same officers who -- that were in 17 with us all day. 18 Q You said Middlesex County police 19 officers? 20 A I think -- 21 MR. SEXTON: Wait, wait, wait. Do not 22 talk while she's talking. 23 Q You said Middlesex County police 24 officers. Did you mean to say something else? 25 MR. SEXTON: Don't talk until I put my VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">124</p> <p>1 A Yes. 2 Q And at some point did you speak to a 3 nurse? 4 A Yes. 5 Q And at some point you spoke to some 6 corrections officers. 7 A No. 8 Q Were you placed in a holding cell in 9 that receiving area? 10 A Yes. 11 Q Do you recall if there were any other 12 individuals in the cell with you? 13 A Yes. 14 Q About how many? 15 A About four to five people that were 16 already there. 17 Q And were these people and you being 18 taken in and out of the cell for various parts of 19 this process? 20 A Yes. 21 Q And then at some point you were taken 22 down the hall into a change-out room and changed 23 out into facility clothing, correct? An orange 24 jumpsuit, I would assume? 25 A Yes. VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">123</p> <p>1 hand up, okay? 2 Q We'll get this. It's okay. It's all 3 okay. We'll get our timing down. 4 So you believe it was Woodbridge officers 5 that brought you in? 6 A Yes. 7 Q And you heard parts of a conversation 8 between Woodbridge officers and the receiving 9 officers at adult corrections, correct? 10 A Yes. 11 Q And that's where you heard something, 12 some reference to police officers, correct? 13 A Yes. 14 Q Is there anything else other than what 15 you've told me about the conversation that you 16 overheard? 17 A No. 18 Q Once you got into the receiving area, 19 did they take the handcuffs off of you? 20 A Not immediately. 21 Q At some point they did, though, 22 correct? 23 A Yes. 24 Q I assume you spoke with the civilian 25 clerk and answered some questions? VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">125</p> <p>1 Q And your property and possessions were 2 put into a bag and put on something that looked 3 like it belongs in a dry cleaners conveyance 4 belt, correct? 5 A Yes. 6 Q And where did you go from there, if 7 you know? 8 A Back inside the holding cell. 9 Q Once you left that receiving area 10 holding cell, where in the facility did you go? 11 And such as medical, a housing unit, can you 12 describe for me where you went? 13 A The housing room when you first come 14 in, intake unit. 15 Q The intake unit or a November unit, N 16 unit? Does that sound familiar? 17 A Intake unit. 18 Q Did you have any problems or 19 complaints with any of the Middlesex County 20 personnel that you dealt with in the receiving or 21 intake area that we just talked about? 22 A Yes. 23 Q Who did you have a problem with? 24 A I don't know the person's name, but it 25 was a guard. He basically -- I asked him for VITALE REPORTING SERVICE (732) 223-1263</p>

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1 **something and he told me no. I went back and**
2 **asked him again and he basically told me like he**
3 **don't help people who harm officers.**
4 **Q** What did you ask him for?
5 **A** **I think it was toilet paper or tissue.**
6 **I think toilet paper or soap, one or the other.**
7 **Q** How long were you in the intake area
8 for?
9 **A** **Five, six days.**
10 **Q** I'm sorry. That reception area that
11 you were walked into with the holding cell, I'm
12 going to call that the receiving and discharge
13 area. And so I'll ask you how long were you in
14 that receiving and discharge area up to the point
15 like where you got changed out?
16 **A** **Hours.**
17 **Q** When you say hours, one to two? If
18 you can estimate, would that be accurate?
19 **A** **I can't estimate. It was a long day.**
20 **Q** Can you estimate if it was more or
21 less than 12 hours?
22 **A** **Less than 12 hours.**
23 **Q** Can you estimate if it was more or
24 less than six hours in that receiving and
25 discharge area?

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1 **A** **I can't.**
2 **Q** Did anyone else ask for toilet paper
3 or soap while you were there in your presence?
4 **A** **Not in my presence.**
5 **Q** Were you ever seen by the medical
6 staff at the adult correction facility?
7 **A** **Yeah.**
8 **Q** When was that?
9 **A** **In the intake room, in the receiving**
10 **room when we first come in.**
11 **Q** Other than that, did you ever go down
12 to the medical unit for a more thorough --
13 **A** **They have a medical unit right on the**
14 **unit. When they bring you into the intake unit,**
15 **they sit you down, you have to see medical before**
16 **they send you to your cell, before they give you**
17 **a paper with your assigned cell, you get a book**
18 **and stuff like that, you sit down in a chair and**
19 **see the nurse first.**
20 **Q** Did you have any physical complaints
21 when you saw the nurse?
22 **A** **No.**
23 **Q** And that's where you were told you
24 were being assigned to the intake unit which I'll
25 refer to as N or November unit; is that correct?

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1 **A** **Yes.**
2 **Q** You were -- or strike that.
3 Were you escorted down the hall to the
4 intake unit for your housing assignment?
5 **A** **I can't remember.**
6 **Q** Do you recall what time of day it was
7 when you got to November unit for your housing
8 assignment?
9 **A** **Nighttime.**
10 **Q** And were you assigned a cell?
11 **A** **Yes.**
12 **Q** Do you remember -- or strike that.
13 Describe the intake unit for me.
14 **A** **Come in, there's a desk when you first**
15 **walk with where all the officers sit. You walk**
16 **straight. A little to the left there's like two**
17 **nurse's offices, and there's like another door to**
18 **the side, I don't know exactly what that door is**
19 **in there. Some steps you go up. Once you go up**
20 **the steps, that's where all the cells are around.**
21 **Then you go up another flight of steps, there's**
22 **cells all the way around again.**
23 **Q** There's three levels of cells in N
24 unit?
25 **A** **Yes.**

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1 **Q** So there's a --
2 **A** **Bottom floor where like when you first**
3 **walk in, there's cells around there. Then you go**
4 **upstairs, there's cells around, and you go up to**
5 **the third floor, there's cells around.**
6 **Q** And which floor were you assigned a
7 cell on?
8 **A** **On the second.**
9 **Q** Do you recall initially being assigned
10 to a cell on the first floor, cell number 013?
11 **A** **No.**
12 **Q** Were you ever in a cell on the first
13 floor even for a few minutes?
14 **A** **No.**
15 **Q** So when you got up to the unit, you
16 went to a cell on the second floor, correct?
17 **A** **Yes.**
18 **Q** If I said the number 208, does that
19 mean anything to you?
20 **A** **Not offhand. I know it was like in**
21 **the middle -- I think it was in the middle -- it**
22 **was directly in the middle of the floor.**
23 **Q** I'm going to represent to you the
24 screen shot that I have says the time the cell
25 was assigned was 2355 hours or about five minutes

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<p style="text-align: right;">130</p> <p>1 before midnight. Does that refresh your</p> <p>2 recollection at all as to what time you might</p> <p>3 have got to the unit?</p> <p>4 A I just know it was nighttime.</p> <p>5 Q When you were assigned to the cell,</p> <p>6 was anyone else assigned to the cell?</p> <p>7 A I think there was somebody in there</p> <p>8 when I first got there. Was there somebody in</p> <p>9 there the first day or did they come the second</p> <p>10 day? I think it was somebody in there the first</p> <p>11 day with me when I got there and I think they</p> <p>12 left and then somebody else came the next day.</p> <p>13 Q And a cell has a toilet and some</p> <p>14 bunkbeds in it, correct?</p> <p>15 A Yes.</p> <p>16 Q Now, how long were you in N unit for?</p> <p>17 A At least five days.</p> <p>18 Q And from N unit, where were you</p> <p>19 transferred to?</p> <p>20 A Another unit. I don't know the name</p> <p>21 of it.</p> <p>22 Q If I said J unit or Juliet unit, does</p> <p>23 that ring a bell?</p> <p>24 A Not really.</p> <p>25 Q The next unit that you go to, I'm</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">132</p> <p>1 breakfast is served?</p> <p>2 A It's not brought to your cell. They</p> <p>3 send you out on a thing. They call out, you open</p> <p>4 the door and then you walk downstairs in the one</p> <p>5 line, you get it and you walk back in a line to</p> <p>6 your cell.</p> <p>7 Q And are you locked back in your cell</p> <p>8 once you've picked up your breakfast tray?</p> <p>9 A Yes.</p> <p>10 Q How are the breakfast trays collected?</p> <p>11 A Actually you just sit them by your</p> <p>12 door and when it's time, when they open the door,</p> <p>13 you got to go out, for people to go out or if</p> <p>14 somebody going to do something, they tell you to</p> <p>15 open the door and everybody just slide the tray</p> <p>16 in front of the door and the door close.</p> <p>17 Q There's a large common area on the</p> <p>18 floor, on the ground floor in N unit, correct?</p> <p>19 A Yes.</p> <p>20 Q There are a couple of tables and</p> <p>21 chairs down there?</p> <p>22 A Yes.</p> <p>23 Q And there are two televisions down</p> <p>24 there, correct?</p> <p>25 A Yes.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">131</p> <p>1 going to represent to you my records indicate it</p> <p>2 is J unit.</p> <p>3 Was that an open dormitory style unit?</p> <p>4 A Yes.</p> <p>5 Q And the unit you came from was</p> <p>6 individual cells, was the intake unit, correct?</p> <p>7 A Yes.</p> <p>8 Q When you were in the intake unit,</p> <p>9 during what period of time were you in your cell</p> <p>10 versus allowed out of your cell?</p> <p>11 A I was in my cell the whole day except</p> <p>12 for when it was time to eat or I had to see my</p> <p>13 lawyer or someone. Other than that, I was inside</p> <p>14 the cell.</p> <p>15 Q So when breakfast is served, it comes</p> <p>16 in on trays, correct?</p> <p>17 A Breakfast is served, you go --</p> <p>18 breakfast come in come to your room. Once you go</p> <p>19 out -- if I'm not mistaken, once you go out -- or</p> <p>20 was it dinner that you go out? I'm not really</p> <p>21 sure exactly which one.</p> <p>22 Q So in the morning the breakfast is</p> <p>23 brought to your cell, correct?</p> <p>24 A Yes.</p> <p>25 Q And you are in your cell at the time</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">133</p> <p>1 Q And at some point in the day, although</p> <p>2 you didn't remember whether it was lunch or</p> <p>3 dinner, you come out of your cell and you can go</p> <p>4 down onto the dayroom floor, correct?</p> <p>5 A Yes.</p> <p>6 Q And you spend several hours out on the</p> <p>7 dayroom floor with all of the other individuals</p> <p>8 who are housed in N unit; is that correct?</p> <p>9 A No.</p> <p>10 Q At some point you come out of your</p> <p>11 cell, though, correct?</p> <p>12 A I came out of my cell when I was there</p> <p>13 just to eat.</p> <p>14 Q And were you the only individual</p> <p>15 coming out of your cell at one time or was it a</p> <p>16 communal everybody comes out together?</p> <p>17 A Everybody came out. When they gave us</p> <p>18 an hour, we came out to dinner. We got one hour</p> <p>19 to come out around dinnertime. We came out</p> <p>20 around an hour at dinnertime, you either could</p> <p>21 get on the phone, you could eat your dinner or</p> <p>22 you can get on the phone, take a shower or you</p> <p>23 could just sit there. Just one hour, though,</p> <p>24 just one hour that they allowed us to do this.</p> <p>25 Q And as you sit here today, you're</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

<p style="text-align: right;">134</p> <p>1 absolutely certain it was just one hour?</p> <p>2 A I'm pretty sure it was like one hour.</p> <p>3 Q And if I said to you that the policies</p> <p>4 and procedures say that it is the afternoon</p> <p>5 shift, you would disagree with that?</p> <p>6 A I would disagree.</p> <p>7 Q During the time that you were out,</p> <p>8 though, you were in common contact with all the</p> <p>9 other individuals housed in the unit, correct?</p> <p>10 A For the hour, yes.</p> <p>11 Q And you had access to telephone</p> <p>12 services, correct?</p> <p>13 A Yes, for the hour.</p> <p>14 Q When was the first phone call you made</p> <p>15 home to anybody to let them know what happened?</p> <p>16 A In the receiving area in the county.</p> <p>17 Q And that phone was in that holding</p> <p>18 cell.</p> <p>19 A Yes.</p> <p>20 Q And that's when you first called</p> <p>21 someone to tell them what happened?</p> <p>22 A Yes.</p> <p>23 Q Who did you call?</p> <p>24 A I called my cousin who drove me down</p> <p>25 there and he said he pretty much already knew</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">136</p> <p>1 allowed to eat outside of the cell, correct?</p> <p>2 A Yes.</p> <p>3 Q Was there any -- strike that.</p> <p>4 Did you ever request law library privileges</p> <p>5 while you were in N unit?</p> <p>6 A I was told that we couldn't.</p> <p>7 Q Did you ever request it?</p> <p>8 A I was told by office -- I asked the</p> <p>9 officer, he said that we couldn't.</p> <p>10 Q Did you ever file a grievance about</p> <p>11 that?</p> <p>12 A No.</p> <p>13 Q Did you file a grievance about</p> <p>14 anything?</p> <p>15 A No.</p> <p>16 Q And you mentioned something about --</p> <p>17 in your Complaint about recreation? Do you</p> <p>18 recall that?</p> <p>19 A Yeah, I wasn't getting out. I was</p> <p>20 only getting of my cell at dinnertime for that</p> <p>21 one hour.</p> <p>22 Q Were you -- I'm going to describe some</p> <p>23 parts of the unit. I'm going to ask if this was</p> <p>24 a unit you were in while you were at county</p> <p>25 corrections, okay?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">135</p> <p>1 because he went inside to ask what happened to me</p> <p>2 and he went home and told my fiancée and told my</p> <p>3 mother.</p> <p>4 Q When you got to N unit, did you use</p> <p>5 the phone during the time you were in N unit?</p> <p>6 A Yes.</p> <p>7 Q Who did you call while you were housed</p> <p>8 in N unit?</p> <p>9 A My mother and my fiancée.</p> <p>10 Q And during the time you were housed in</p> <p>11 N unit, you got three meals a day, correct?</p> <p>12 A Yes.</p> <p>13 Q And you were allowed to use the</p> <p>14 showers, correct?</p> <p>15 A Yes.</p> <p>16 Q You had a bathroom in the cell,</p> <p>17 correct?</p> <p>18 A Yes.</p> <p>19 Q There were televisions on the floor,</p> <p>20 correct?</p> <p>21 A Yes.</p> <p>22 Q Televisions were working?</p> <p>23 A Yes.</p> <p>24 Q And there were tables and chairs where</p> <p>25 you could sit and eat the meal that you were</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">137</p> <p>1 Were you ever in a unit that had a cage or</p> <p>2 secure enclosure in the middle of the dayroom</p> <p>3 floor?</p> <p>4 A No.</p> <p>5 Q Were you ever in a unit that you</p> <p>6 walked up a half a flight of stairs to get to the</p> <p>7 balcony or dayroom floor?</p> <p>8 A Not that I know of.</p> <p>9 Q Were you ever in a unit that you heard</p> <p>10 referred to as C pod, C as in Charlie, pod,</p> <p>11 p-o-d?</p> <p>12 A No.</p> <p>13 Q Were you ever in disciplinary</p> <p>14 detention?</p> <p>15 A No.</p> <p>16 Q Were you ever charged with any</p> <p>17 institutional violations while you were at</p> <p>18 Middlesex County Adult Corrections?</p> <p>19 A No.</p> <p>20 Q Did you ever charge anyone else with</p> <p>21 any complaints while you were at Middlesex County</p> <p>22 Adult Corrections?</p> <p>23 A No.</p> <p>24 Q Upon admission, did you receive an</p> <p>25 inmate handbook?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 **A Yes.**
2 **Q** Do you still have it?
3 **A No.**
4 **Q** Do you know what happened to it?
A I left it there.
6 **Q** Did you read the handbook?
7 **A Yes.**
8 **Q** And what did it say about the
9 conditions of being housed in N unit?
10 **A I don't remember. I don't remember**
11 **offhand right now.**
12 **Q** Did it say anything about law library
13 access or recreation when you're in N unit?
14 **A I remember -- not offhand but it did.**
15 **Q** And as you sit here today, you just
16 don't recall what that was; is that fair to say?
17 **A Yes.**
18 **Q** I'm going to reference the term
19 classification committee.
20 Did you ever appear before any
21 classification committee to make any
22 determination about your housing assignment?
23 **A No.**
24 **Q** At some point you were told your
25 housing assignment was changing?
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1 **A Yes.**
2 **Q** And how did you learn that?
3 **A They just told me to pack up.**
4 **Q** And you packed up whatever you had and
5 you moved to the new unit?
6 **A Yes.**
7 **Q** How many times did you see your
8 attorney or public defender, as the case may be,
9 when you were at Middlesex County Adult
10 Corrections?
11 **A Twice.**
12 **Q** Where were those visits when you spoke
13 with your attorney?
14 **A One was on the unit and one was by the**
15 **video conference area.**
16 **Q** And by video conference area, you're
17 talking the area where you go to speak on the
18 video teleprompter to go speak with the judge,
19 correct?
20 **A Yes.**
21 **Q** Were there any times that your
22 attorney came to visit you where you were denied
23 the right to meet with your attorney?
24 **A Not that I know of.**
25 **Q** Anyone -- any time that your attorney
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1 told you, said, hey, I couldn't get in to see
2 you, anything like that?
3 **A Not that I know of.**
4 **MS. DVORAK:** Counsel, just for the
5 record, I'm going to ask about the Complaint
6 that is currently filed, and if an amended
7 Complaint is filed, I'm going to reserve the
8 right to ask any additional questions
9 depending on what the final version of the
10 amended Complaint may look like.
11 **Q** I'm going to ask you some questions
12 about what's been previously marked as P-1. I'm
13 placing a copy in front of you in case you want
14 to review it, and I'm going to generally be
15 asking questions about paragraphs 61 to 68 in
16 here which deals with your time in confinement at
17 the Middlesex County Adult Corrections Center, so
18 if you want to look at that part or any part,
19 please feel free.
20 Are you aware as to whether or not you were
21 the only inmate that was kept in that intake unit
22 for five days upon arrival?
23 **A I'm not sure if I was the only one**
24 **there, but I know I was there longer than both**
25 **bunkees that I had inside my room. They both**
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1 **left and went to the other units. I know that**
2 **both bunkees left before me. One came after me**
3 **and still left to go to another unit before me.**
4 **And everyone that I came to the unit with was**
5 **gone within two or three days and I was still**
6 **there maybe for five or six.**
7 **Q** So we decided before you were in the N
8 unit for five days, correct?
9 **A Yes.**
10 **Q** And you're saying most people were
11 gone by three days and you had to stay for five
12 days, correct?
13 **A Um-hum.**
14 **Q** Yes?
15 **A Yes.**
16 **Q** The two individuals or bunkees, as you
17 referred to them, do you know if either of them
18 had been to the adult correction center before?
19 **A Yes.**
20 **Q** You know that and they had been, in
21 fact, there previously?
22 **A Yes.**
23 **Q** Do you know if they were transferred
24 to another unit or bailed out?
25 **A They were transferred to another unit.**
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<p style="text-align: right;">142</p> <p>1 Q And do you know if the fact that they</p> <p>2 had been there previously had played any part in</p> <p>3 them receiving a transfer sooner?</p> <p>4 A Not that I know of.</p> <p>Q Not that you know of. You don't know</p> <p>6 one way or the other; is that correct?</p> <p>7 A I don't know one way or the other.</p> <p>8 Q Perfect.</p> <p>9 In your Complaint at paragraph 62, you say</p> <p>10 because you were kept at intake. You're</p> <p>11 referring to this N unit, correct?</p> <p>12 A Yes.</p> <p>13 Q You said plaintiff took meals alone,</p> <p>14 and I'm reading paragraph 62. You're referring</p> <p>15 to the two of the three meals in the day, you and</p> <p>16 every other member of the unit took meals alone,</p> <p>17 correct?</p> <p>18 A I was in a cell by myself for the last</p> <p>19 two days. No one was in the cell with me.</p> <p>20 Q So the first three days you had a</p> <p>21 bunkmate --</p> <p>22 A Yes.</p> <p>23 Q -- in the cell with you, correct?</p> <p>24 A Yes.</p> <p>25 Q And then after the second bunkmate</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">144</p> <p>1 library and conversation.</p> <p>2 Did I read that correctly?</p> <p>3 A Yes.</p> <p>4 Q So you did have television in the</p> <p>5 unit, though, but your complaint is that you did</p> <p>6 not have as much television as others?</p> <p>7 A I've never -- I didn't watch the</p> <p>8 television. I had an hour. When I came out,</p> <p>9 when we came out for dinner, I had an hour. You</p> <p>10 could eat your dinner, take a shower or use a</p> <p>11 phone. I didn't have time to watch television.</p> <p>12 Q You would have if you wanted to but</p> <p>13 decided there were more important things you</p> <p>14 wanted to do first, is that a fair statement?</p> <p>15 A Yes.</p> <p>16 MR. SEXTON: Objection to form.</p> <p>17 Q And did you request any access to the</p> <p>18 library, other than the law library, for any</p> <p>19 other type of books other than legal materials?</p> <p>20 A Yes, I actually asked for books to</p> <p>21 read while I was inside the cell by myself and he</p> <p>22 told me to come out and find them.</p> <p>23 Q I'm sorry?</p> <p>24 A Come out and find them. That was a</p> <p>25 way of him being funny, like come out and find</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">143</p> <p>1 transferred out, you did not get assigned a new</p> <p>2 bunkmate.</p> <p>3 A Yes.</p> <p>4 Q So for lack of a better term, you had</p> <p>5 a private room for the last two days, correct?</p> <p>6 A Yes.</p> <p>7 Q And your breakfast and at least one</p> <p>8 other meal were taken privately in your cell,</p> <p>9 correct?</p> <p>10 A Yes.</p> <p>11 Q And one meal was taken communally with</p> <p>12 everyone else in the unit, correct?</p> <p>13 A Yes.</p> <p>14 Q And during the five days that you were</p> <p>15 there, you did not have any outside recreation,</p> <p>16 correct?</p> <p>17 A No.</p> <p>18 Q Is that correct?</p> <p>19 A Yes.</p> <p>20 Q Are you aware of whether anyone else</p> <p>21 in the intake unit had outside recreation?</p> <p>22 A No.</p> <p>23 Q And paragraph 64 says because you were</p> <p>24 kept at intake, you were denied recreational</p> <p>25 opportunities on the regular tiers, television,</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">145</p> <p>1 them.</p> <p>2 Q And conversation, you were able to</p> <p>3 have conversation during your time out if you so</p> <p>4 choose and you're saying while you were in your</p> <p>5 cell for the two days where there wasn't another</p> <p>6 bunkmate, you didn't have conversation then; is</p> <p>7 that fair to say?</p> <p>8 A Yes.</p> <p>9 Q While you were in your cell when you</p> <p>10 didn't have a bunkmate, could you talk to inmates</p> <p>11 in the adjoining cells nearby?</p> <p>12 A No.</p> <p>13 Q Why not?</p> <p>14 A Brick walls.</p> <p>15 Q Is it fair to say other inmates</p> <p>16 commonly talked to each other in the adjoining</p> <p>17 cells that you heard while you were there?</p> <p>18 A No. We're not facing like towards</p> <p>19 each other. Everything is just --</p> <p>20 Q I understand, but each cell is right</p> <p>21 next to each other, correct, they're in a row?</p> <p>22 A But you can't hear through the brick</p> <p>23 walls.</p> <p>24 Q But there's openings in the front door</p> <p>25 of the cells such as where the trays pass</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

<p style="text-align: right;">146</p> <p>1 through, correct?</p> <p>2 A Yes.</p> <p>3 Q And you're saying you couldn't hear</p> <p>4 anybody through your cell?</p> <p>A Screaming through those, you'd get in</p> <p>6 trouble.</p> <p>7 Q You say in your Complaint at paragraph</p> <p>8 65 that you were in fear of physical abuse as the</p> <p>9 corrections officers verbally threatened you with</p> <p>10 excessive force.</p> <p>11 So how many times were you threatened by</p> <p>12 corrections officers with excessive force?</p> <p>13 A One officer, when I went down to ask</p> <p>14 for tissues and stuff told me "Don't come back</p> <p>15 over here again, I told you already. You know</p> <p>16 what's going to happen next time. I told you</p> <p>17 already."</p> <p>18 So when you get told that, he doesn't have</p> <p>19 to tell me like I'm going to do this to you if</p> <p>20 you come back over here. He's basically letting</p> <p>21 me know already if I come back over here, there's</p> <p>22 going to be a problem without telling me there's</p> <p>23 going to be a problem.</p> <p>24 Q And any other time?</p> <p>25 A And I was told that numerous times.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">148</p> <p>1 that you came back, he said, "I told you no,</p> <p>2 don't ask me again," correct?</p> <p>3 A "Don't bring your ass back over here."</p> <p>4 Q And you interpreted that to mean that</p> <p>5 you were being threatened with excessive force</p> <p>6 because he told you to stop repeatedly asking</p> <p>7 him; is that correct?</p> <p>8 MR. SEXTON: Objection to form.</p> <p>9 A Yes.</p> <p>10 Q The second time you believed you were</p> <p>11 going to be threatened with excessive force was</p> <p>12 because an officer made a reference to the reason</p> <p>13 why you were arrested?</p> <p>14 A Yes.</p> <p>15 Q Did either the first officer or the</p> <p>16 second officer make any -- have any physical</p> <p>17 interaction with you?</p> <p>18 A Wasn't physical but it was their</p> <p>19 demeanor and their anger, like the way they</p> <p>20 carried theirselves when they said it and the way</p> <p>21 they were acting, the way they were carrying</p> <p>22 theirselves, I knew that either leave these guys</p> <p>23 alone or it's going to be -- the interaction was</p> <p>24 not going to be good.</p> <p>25 Q Is it fair to say that officer number</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">147</p> <p>1 Q Tell me about the next time.</p> <p>2 A I was told that by another -- not -- I</p> <p>3 wasn't exactly told that by another officer but</p> <p>4 another officer made a reference to the reason</p> <p>5 why I was arrested, why I was there. So that</p> <p>6 just told me like get away from him, it's not</p> <p>7 going to be a good interaction.</p> <p>8 Q Tell me about the next time if there</p> <p>9 was one.</p> <p>10 A That's it. That's the other time</p> <p>11 right there.</p> <p>12 Q So there were two times that you</p> <p>13 believe you were threatened with excessive force</p> <p>14 that you've just described for me, correct?</p> <p>15 A Yes.</p> <p>16 Q Now, let's talk about the first one</p> <p>17 again about the tissue. You said the officer</p> <p>18 said to you "and don't come back again." Had you</p> <p>19 asked him previously?</p> <p>20 A Yes.</p> <p>21 Q So you asked him on more than one</p> <p>22 occasion for a tissue or for soap; is that</p> <p>23 correct?</p> <p>24 A Yes.</p> <p>25 Q And on one of the subsequent times</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">149</p> <p>1 one and officer number two never physically</p> <p>2 touched you? Is that a fair statement?</p> <p>3 A No. Yes.</p> <p>4 Q They never touched you, right?</p> <p>5 A No, they never touched me.</p> <p>6 Q Did either officer actually verbally</p> <p>7 utter a threat to your safety?</p> <p>8 MR. SEXTON: Objection to form.</p> <p>9 A Yes.</p> <p>10 Q Did they ever say I'm going to beat</p> <p>11 you, I'm going to get you, I'm going to smack</p> <p>12 you, any words to that effect?</p> <p>13 A As I stated before, he doesn't have to</p> <p>14 say those words specifically for me to know what</p> <p>15 that mean inside that environment.</p> <p>16 Q Did they ever specifically say those</p> <p>17 words?</p> <p>18 A No.</p> <p>19 Q They -- you interpreted that they were</p> <p>20 threatening you by other words.</p> <p>21 A Yes.</p> <p>22 Q And that was don't come back again and</p> <p>23 talking about the reason why you were arrested;</p> <p>24 is that correct?</p> <p>25 A Yes.</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 **Q** Now that we've talked about you were
2 there for eight days from Tuesday to Wednesday,
3 do you recall when your first court appearance
4 was in that timeline?

5 **A** **No.**

6 **Q** You came in on a Tuesday late in the
7 day, correct?

8 **A** **Yes.**

9 **Q** And you got to the cell near midnight,
10 I'm assuming, sometime in the night, correct?

11 **A** **Yes.**

12 **Q** Was your court appearance the very
13 next day, if you recall?

14 **A** **No.**

15 **Q** It was the day after?

16 **A** **No. I think it was Friday.**

17 **Q** So you think the first court
18 appearance was Friday.

19 Do you recall when the second court
20 appearance was?

21 **A** **Yes, the day I was released.**

22 **Q** So you had one court appearance at
23 some point after your arrival and another one on
24 the day you were released, correct?

25 **A** **Yes.**

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1 **Q** Were you advised at some point that
2 the prosecutor had filed a motion for pretrial
3 detention?

4 **A** **Yes.**

5 **Q** And that was while you were still
6 continuing to be held at the adult correctional
7 facility, correct?

8 **A** **Yes.**

9 **Q** And on the return date of that motion,
10 I take it that's when an order was entered giving
11 you some additional conditions of your release
12 such as your reporting to pretrial services and
13 the like, correct?

14 **A** **Yes.**

15 **Q** And you were released that same day,
16 correct?

17 **A** **Yes.**

18 **Q** Do you recall when in your -- strike
19 that.

20 Do you recall when or if there was any
21 correlation between when you went to the
22 dormitory unit in relation to when your first
23 court date was? Was that the same day or were
24 those different days?

25 **A** **A day apart, if I'm not mistaken.**

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1 **Maybe a day or two. I think two days.**

2 **Q** Which came first, the court appearance
3 or the move to Juliet unit?

4 **A** **The move.**

5 **Q** So is it fair to say even before you
6 or anybody else knew if you were going to be able
7 to get out by going to court, you were already
8 moved out to Juliet unit, correct?

9 **A** **Yes.**

10 **Q** In your Complaint, I'm going to ask
11 you to clarify paragraph 66, you said you were
12 only transferred to a tier after your second
13 court appearance seven days later and after the
14 public defender intervened. So I want to ask you
15 about that.

16 **A** **Maybe we had got the time wrong.**

17 **Maybe we got the time confused. I thought I was**
18 **there ten days so the time is just wrong.**

19 **Q** So which one is correct, is it in the
20 Complaint or what we were talking about? Which
21 one he is more accurate?

22 **A** **The numbers that you have are more**
23 **accurate. That was just me talking off of**
24 **recollection.**

25 **Q** So as you sit here today, you recall

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1 two court appearances and you were -- you were
2 incarcerated for eight days, right?

3 **A** **Yes.**

4 **Q** And you were transferred to the tier
5 before your court appearance, right?

6 **A** **Yes.**

7 **Q** And do you have -- or strike that.
8 What is the basis of you believing that your
9 public defender intervened to get you
10 transferred?

11 **A** **Because I was asking her all day, like**
12 **the last time I was going to -- the last time I**
13 **seen her, I was asking her when am I getting out**
14 **of intake unit, and I kept asking her and she**
15 **basically said she was going to look into it. So**
16 **I figured maybe it happened right after I seen**
17 **her that Friday, I think, so I figured she got it**
18 **done.**

19 **Q** As you sit here today, is it fair to
20 say you don't know one way or the other?

21 **A** **Yeah, at the time I probably -- pretty**
22 **sure I assumed she was the one who got it done**
23 **because she was the one I was talking to.**

24 **Q** But you don't actually know.

25 **A** **No.**

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<p style="text-align: right;">154</p> <p>1 Q Is that correct?</p> <p>2 A Yes.</p> <p>3 Q Do you have any knowledge as to what</p> <p>4 the standard or timeframe is at Middlesex County</p> <p>5 for individuals to stay in that intake unit?</p> <p>6 A No, I just -- I just knew that in my</p> <p>7 past experiences, I never stayed in the intake</p> <p>8 unit more than two days, three days.</p> <p>9 Q And that was at other facilities --</p> <p>10 A Other facilities, yes, state and</p> <p>11 county.</p> <p>12 Q And Passaic County.</p> <p>13 A Yes.</p> <p>14 Q Do you have any personal knowledge</p> <p>15 about Middlesex County Corrections' litigation</p> <p>16 history?</p> <p>17 A No. I was just going off my personal</p> <p>18 knowledge.</p> <p>19 Q And that's fine. That's what we're</p> <p>20 here to find out, what you know versus what you</p> <p>21 learned versus anything else.</p> <p>22 In some of the paperwork that was provided</p> <p>23 in this matter, it's called initial disclosures,</p> <p>24 there were the names of some people who were</p> <p>25 listed. I'm going to ask you some questions</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">156</p> <p>1 A No, she didn't contact any of them.</p> <p>2 Q In this same document you claim -- one</p> <p>3 of your claims is for lost wages. I'm going to</p> <p>4 ask you some questions about your employment</p> <p>5 history.</p> <p>6 A No problem.</p> <p>7 Q At the time of your arrest on</p> <p>8 February 5, 2019, where were you employed?</p> <p>9 A Price Rite.</p> <p>10 Q And what kind of -- is that the one</p> <p>11 you described earlier?</p> <p>12 A Yes.</p> <p>13 Q Some type of a home improvement --</p> <p>14 A No, that's a grocery store.</p> <p>15 Q When were you employed with that home</p> <p>16 improvement group that you described earlier?</p> <p>17 A I didn't start there till -- I've been</p> <p>18 there the last two years.</p> <p>19 Q So if we're in '22, it would have been</p> <p>20 in sometime in 2020 to the present?</p> <p>21 A Yes.</p> <p>22 Q When did you start working at Price</p> <p>23 Rite?</p> <p>24 A Two thousand -- I started -- I was at</p> <p>25 Shop-Rite first. Shop-Rite owns the Price Rite</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">155</p> <p>1 about them.</p> <p>2 The first one was I guess Tyris Robertson?</p> <p>3 A Yes.</p> <p>4 Q Who was that?</p> <p>5 A That was my cousin who drove me there.</p> <p>6 Q And Mr. Robertson, do you have any</p> <p>7 personal knowledge of whether Mr. Robertson</p> <p>8 interacted in any way with anybody from Middlesex</p> <p>9 County Adult Corrections?</p> <p>10 A No.</p> <p>11 Q You don't know one way or the other?</p> <p>12 A I know he didn't deal with anybody</p> <p>13 from corrections.</p> <p>14 Q Do you know -- or strike that.</p> <p>15 Patricia Parks, that's your mother?</p> <p>16 A Yes.</p> <p>17 Q Do you know if she dealt with anybody</p> <p>18 from corrections?</p> <p>19 A She didn't.</p> <p>20 Q She did not?</p> <p>21 A She did not.</p> <p>22 Q Lateefah Gary, who is that?</p> <p>23 A That's my ex-fiancee.</p> <p>24 Q And same question, do you know if she</p> <p>25 did?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">157</p> <p>1 and they started opening the Price Rite in</p> <p>2 Paterson, they started building it and they put a</p> <p>3 sign up asking anybody want to transfer, it was</p> <p>4 closer. And I was at Shop-Rite since 2017 or</p> <p>5 '16, end of '16, early '17.</p> <p>6 Q And that's Wakefern Corporation?</p> <p>7 A Yes.</p> <p>8 Q Is that what it would have said on</p> <p>9 your pay stubs?</p> <p>10 A Yes.</p> <p>11 Q And what location of Shop-Rite you did</p> <p>12 work at in 2016, 2017?</p> <p>13 A Fair Lawn.</p> <p>14 Q And what was your job position or</p> <p>15 positions that you held when you were at</p> <p>16 Shop-Rite?</p> <p>17 A I worked -- I got hired for produce.</p> <p>18 Q And during the time you were at the</p> <p>19 Fair Lawn Shop-Rite, were you always in produce?</p> <p>20 A Yes.</p> <p>21 Q What was your rate of pay when you</p> <p>22 were at the Fair Lawn Shop-Rite?</p> <p>23 A I can't remember.</p> <p>24 Q Do you have any pay stubs or anything</p> <p>25 at home?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>

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1 **A Not from there.**
2 **Q** When did you transfer over to Price
3 Rite?
4 **A I think it was maybe '18.**
Q And what position did you hold while
6 you were at Price Rite?
7 **A I was an assistant manager for the**
8 **produce department. At first I was just produce**
9 **and then by the time when I left I was assistant**
10 **manager of the produce department.**
11 **Q** When did you receive the promotion
12 approximately?
13 **A About -- I can't even say.**
14 **Q** Can you tell me whether the promotion
15 was before or after the date of your arrest that
16 brings us here for this litigation?
17 **A I think it was before.**
18 **Q** Do you have any pay stubs from that
19 timeframe, 2018, 2019, 2020 at Price Rite?
20 **A I don't. I guess I could try to get**
21 **some.**
22 MS. DVORAK: Counsel, if he's
23 maintaining a lost wage claim, I'm going to
24 request pay stubs from either 2018 and/or
25 2019 and/or 2020 timeframe.
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1 **Q** Were you an hourly employee or were
2 you salaried?
3 **A I was hourly.**
4 **Q** And do you remember what your hourly
5 rate was?
6 **A That's the same question.**
7 **Q** As an assistant manager, does that
8 ring a bell when you got promoted, what was your
9 salary?
10 **A I know when I first started, it was**
11 **like seven something, then it went up, but I**
12 **don't know exactly what it went up. I'm not even**
13 **sure what it was when I left.**
14 **Q** Were you a full-time employee at Price
15 Rite?
16 **A Yes.**
17 **Q** And full-time being 40 hours a week?
18 **A Yes.**
19 **Q** And did you receive benefits while you
20 were employed there? Or were they offered, I
21 should say?
A No.
22 **Q** And when did you leave Price Rite?
23 **A Around the time the pandemic started.**
24 **Q** Was that your decision or were you
25
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1 terminated or how did that work out?
2 **A Actually I was terminated because I**
3 **actually caught COVID and it was like right**
4 **before they had -- it wasn't -- it wasn't -- they**
5 **wasn't calling it COVID yet and I was out for a**
6 **couple of weeks. I was out for maybe like two**
7 **weeks. And me and the new store manager, we kind**
8 **of had like a disagreement. He thought I was**
9 **faking it, and that's pretty much what it was.**
10 **Like I couldn't get my strength right after --**
11 **after I was cleared, I got cleared to go back to**
12 **work, like my strength just wasn't right coming**
13 **back from being sick so he thought I was faking**
14 **it and he let me go.**
15 **Q** You did file for unemployment?
16 **A Yes.**
17 **Q** And did you receive unemployment?
18 **A Yes.**
19 **Q** Would this have been around February
20 or March of 2020?
21 **A I could say, yeah, around that time.**
22 **Q** The shutdown started toward the end of
23 March of 2020. If I gave you that as a reference
24 point, is it fair to say that --
25 **A Yes, it's around that time because I**
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1 **had -- I was sick in like early, mid-January. I**
2 **caught COVID like mid-January, early February and**
3 **I was very -- I was out of it for about two weeks**
4 **and then it was like another two to three weeks**
5 **for it just to like get my strength up. It was**
6 **very hard, I'm going to work but I couldn't do**
7 **the daily -- couldn't do daily duties. Potatoes**
8 **and bags are 50 pounds, and I just didn't have**
9 **the strength after coming back from being sick.**
10 **Q** In relation to that that we're talking
11 about, having COVID, coming back to work, leaving
12 employment with Shop-Rite, when was the dismissal
13 of the charges against you?
14 **A Sometime after that.**
15 **Q** Do you recall if it was in the spring,
16 summer, fall of 2020?
17 **A It was going into the summer because I**
18 **remember it was getting hot. I remember it was**
19 **getting hot so I remember going to the mailbox**
20 **and it was hot that day.**
21 **Q** When was the last court appearance
22 that you recall making?
23 **A Maybe five or six months before I got**
24 **the letter.**
25 **Q** So using COVID as your benchmark in
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1 your mind, did you make any court appearances
2 after you believe you had COVID?
3 **A I don't think so.**
4 **Q** So your last court appearance would
have been pre-COVID.
6 **A Yes.**
7 **Q** And if you think you got COVID in
8 January of 2020 --
9 **A So probably around December, early**
10 **January or December sometime.**
11 **Q** So December 2019 or early January 2020
12 was your last court appearance for this matter,
13 correct?
14 **A Yes.**
15 **Q** When I say this matter, I'm talking
16 about the charges that underlie this litigation.
17 **A Um-hum. I know I didn't go to court**
18 **for months before the letter came.**
19 **Q** Do you still have tax returns, copies
20 of your tax returns, from 2018, 2019, 2020, 2021?
21 **A I got 2021. I don't have other years.**
22 MS. DVORAK: Counsel, I'm going to
23 make a request for his tax returns including
24 the W-2 forms for 2018 to 2021, please.
25 MR. SEXTON: If he has them.
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1 MS. DVORAK: I was going to say, I can
2 try and go through a process to get an
3 authorization requested, send it in to the
4 IRS or, if you want to do that, you can get
5 them and provide them to me, but if he wants
6 to maintain a lost wage claim, I'm going to
7 request that level of information.
8 **Q** Another item that's listed here is
9 loss of business reputation. Did you have any
10 business that you were running or anything?
11 **A Just at work, period. I had to come**
12 **back to work and tell them that I was**
13 **incarcerated for a whole week. Then when they**
14 **asked me what were you incarcerated for, I have**
15 **to explain that I'm incarcerated -- I was**
16 **incarcerated for a charge of assaulting a police**
17 **officer, assault with a deadly weapon, eluding,**
18 **stuff that I didn't do, so it did make me look**
19 **bad.**
20 **Q** It didn't cost you anything at your
21 job, though. In fact, you had been promoted, you
kept your job; is that fair to say?
23 **A Yes, but I did because the owner knew**
24 **me ahead of time, but with the new store manager**
25 **and stuff, like I just didn't -- me and him, it**
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1 **just -- it was a bad way to come in and meet a**
2 **new store manager.**
3 **Q** When did the new store manager start?
4 **A I came back to a new store manager.**
5 **After the week I was gone, I came back to a new**
6 **store manager, so it was just a bad way to come**
7 **in and meet a new store manager and come in**
8 **with --**
9 **Q** Did you receive any write-ups while
10 you were employed at either Shop-Rite or Price
11 Rite?
12 MR. SEXTON: You mean disciplines?
13 **Q** Counseling, discipline, whether it's
14 formal or informal? Did you receive anything
15 like that while you were at Price Rite or
16 Shop-Rite?
17 **A What does that have to do with this?**
18 MR. SEXTON: You have to answer the
19 question.
20 **A No. I don't understand what that has**
21 **to do with this.**
22 **Q** Do you recall answering some written
23 questions in this case?
24 **A No.**
25 **Q** I believe -- I'm going to show you a
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1 certification page that was marked P-5 earlier.
2 You recall this, right?
3 **A Um-hum.**
4 **Q** Yes?
5 **A Yes.**
6 **Q** And that referred to some questions
7 and answers that were prepared with the
8 assistance of your attorney. Does that ring any
9 kind of a bell?
10 **A Okay.**
11 **Q** I'm going to ask you some questions
12 about some of it and I'm happy to show it to you.
13 I can mark it and provide you a copy, but I think
14 some of them are going -- I think it's going to
15 go pretty fast either way.
16 One of the items in question number one that
17 you mention in here was that you were kept in
18 intake for an extended period of at least seven
19 days. As we talked about today, that was five
20 days, right?
21 **A Yes.**
22 **Q** And you say in this, during that time
23 plaintiff was first alone in his temporary cell.
24 You indicated that someone was in there when
25 you got there?
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<p style="text-align: right;">166</p> <p>1 A Yes, then there was company and then I 2 was alone again. 3 Q And you estimate it was three days you 4 had a cellmate and two days without, correct? A Yes. 6 Q Was your bunkmate mentally ill, in 7 your opinion? 8 A Yes. 9 Q Which bunkmate, the first one or the 10 second one? 11 A The second one. 12 Q How long was the second one in your 13 cell with you? 14 A Like two days. 15 Q What about him led you to believe that 16 he was mentally ill? 17 A His conversation. 18 Q How so? 19 A Stuff that he was saying. 20 Q Give me an example. 21 A He had marks on his wrist from trying 22 to harm himself before, he would sit on the bunk 23 and just sit there and just tap his head against 24 the wall, stuff like I've never seen normal 25 people do. VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">168</p> <p>1 in the facility during the time you were at the 2 Middlesex County Adult Correction Center that you 3 felt were a little off? 4 A No, not really, no. 5 Q He was the only one that you felt had 6 any kind of mental problem? 7 A That I've been -- that I was in close 8 contact with and that I know for sure that I've 9 talked to, yes. 10 Q And when you went out to J unit, were 11 you in the same bunking area with that inmate 12 again? 13 A Not in the same sleeping area but he 14 was on that unit but he wasn't in the same 15 four-man pod with me. 16 Q How many general pop housing units are 17 there to your understanding at Middlesex Adult 18 Corrections? 19 A I have no idea. 20 Q Do you know if there was any other 21 general pop? 22 A I have no idea. 23 Q When did you first learn why you were 24 in jail? 25 A The first time I seen the public VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">167</p> <p>1 Q Did he threaten physical violence 2 against you at all? 3 A No. 4 Q And do you know where he was 5 transferred to? 6 A He was transferred to the same housing 7 unit that I was transferred to. 8 Q And is it your belief that he was 9 deranged? 10 A There was something wrong with him. 11 Q I'm using the word deranged 12 specifically. Is that a word you would use to 13 describe him? 14 A I can't give you -- I don't know what 15 the exact meaning of deranged is so -- 16 Q That's fine. 17 And do you think this prisoner was put in 18 there to cause you concern? 19 A Somewhat. 20 Q So is it your position that you think 21 someone, one of the corrections officers, made 22 the decision to put him in with you just to mess 23 with you? 24 A Yes. 25 Q Did you come across any other inmates VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">169</p> <p>1 defender. 2 Q And how soon was that after you 3 arrived at the county facility? 4 A A couple of days. 5 Q Fair to say you had access to a TV, 6 correct? 7 A No. 8 Q You did not have access to a TV while 9 you were in the November unit? 10 A No. 11 Q When you were -- part of the day you 12 were out on the dayroom floor? 13 A Right. I've never seen a TV on while 14 I was there so I didn't have access to it. 15 Q Didn't you tell me earlier that there 16 were TVs on and working? 17 A I said there was TVs there. 18 Q And you're saying that you never saw 19 the TVs on? 20 A I never watched TV while I was there. 21 I said that before. 22 Q Did you observe anyone else watching 23 TV? 24 A I can't remember, but I didn't watch 25 TV while I was there. VITALE REPORTING SERVICE (732) 223-1263</p>

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1 **Q** You had the opportunity to watch TV if
2 you chose instead of a shower or phone call,
3 correct?
4 **A** **Probably could have, but I went to use**
the phone and took a shower.
6 **Q** In these answers you say you only came
7 out of the cell to eat lunch and dinner. So you
8 came out twice a day, correct?
9 **A** **Yeah, but they walk you back to your**
10 **cell.**
11 **Q** Lunch and dinner that were eaten on
12 the tier, correct?
13 **A** **Yes.**
14 **Q** So it was only breakfast was in your
15 cell; lunch and dinner was outside?
16 **A** **No, dinner -- dinner was the only one**
17 **that we ate outside on the chair.**
18 **Q** I'm going to read the answer to
19 question number two. The question reads,
20 [reading] Set forth all facts in support of the
21 allegation at paragraph 62 that plaintiff took
22 his meals alone.
23 And your answer was, [reading] For seven
24 days in intake, plaintiff ate breakfast alone in
25 the cell. However, lunch and dinner were eaten
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1 on the tier with other inmates.
2 **A** **I don't remember exactly -- I don't**
3 **remember exactly if lunch was actually eaten out,**
4 **too, but I don't think so.**
5 **Q** So you recall signing this
6 certification at P-5, correct?
7 **A** **Yes.**
8 **Q** And in here you reviewed your question
9 and answers before you certified it, correct?
10 **A** **Right. It's three years later. I'm**
11 **kind of losing a little bit of memory. I'm**
12 **trying my best.**
13 MR. SEXTON: Just do your best. If
14 you don't know, say you don't recall.
15 **A** **I don't recall. That's my answer.**
16 **Q** Okay.
17 Is it fair to say, though, that you reviewed
18 your questions and answers before --
19 **A** **I don't recall.**
20 MR. SEXTON: Wait for the question.
21 You want to take a break?
22 THE WITNESS: Yes.
23 MS. DVORAK: Sure.
24 (Whereupon a short recess was taken.)
25 **Q** We were talking before the break, you
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1 answered the questions and answers to the written
2 questions and you signed this certification on or
3 about February 2, 2022, correct?
4 **A** **Yes.**
5 **Q** Do you recall, did you review the
6 questions and answers before you signed this
7 certification?
8 **A** **Yes.**
9 **Q** And the certification says you believe
10 everything to be true and correct, correct?
11 **A** **Yes.**
12 **Q** And when you signed it, that was
13 accurate, correct?
14 **A** **Yes.**
15 **Q** And as you sit here today, you don't
16 have any basis to recall whether or not that has
17 changed; is that fair to say?
18 **A** **Yes.**
19 **Q** You described two officers, two
20 corrections officers, being more specific,
21 earlier, the one that you asked about a tissue
22 and the one who referenced the reason why you
23 were arrested. You recall that testimony
24 generally?
25 **A** **Yes.**
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1 **Q** What was the race of the first officer
2 that you asked about the tissue?
3 **A** **They both were white officers.**
4 **Q** Did any corrections officers make any
5 statements to you that were racially derogatory?
6 **A** **No.**
7 **Q** Did you ever request to go into
8 protective custody?
9 **A** **No.**
10 **Q** And I believe you said, and I just
11 want to confirm, you never went into C pod or
12 disciplinary detention or lockdown; is that fair
13 to say?
14 **A** **Yes.**
15 **Q** Did you ever request medical treatment
16 and were denied?
17 **A** **No.**
18 **Q** And were you ever the victim of actual
19 excessive force?
20 **A** **No.**
21 **Q** Did you ever interact with any
22 corrections officers whom you in any way through
23 conversations or insignia believed to be a
24 superior officer, sergeant, lieutenant, captain?
25 **A** **No.**
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1 **Q** All of your interactions were with
2 rank and file corrections officers, correct?
3 **A Yes.**
4 **Q** Did you ever request to speak with a
sergeant or supervisor?
5 **A No.**
6 **Q** Did you ever attend college at all?
7 **A No.**
8 **Q** You mentioned earlier that you had
9 been involved in some substance abuse programs?
10 **A Yes.**
11 **Q** How many times?
12 **A I completed two programs.**
13 **Q** When was the first program?
14 **A Maybe like 2008.**
15 **Q** And where was that?
16 **A New Jersey, I don't know exactly**
17 **where. It was in New Jersey, though.**
18 **Q** Do you remember the name of the
19 program?
20 **A Sunrise House or something like that.**
21 **Q** Say that again?
22 **A Like Sunrise House.**
23 **Q** And where was the program?
24 **A It's in New Jersey. I don't know**
25 **VITALE REPORTING SERVICE (732) 223-1263**

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1 **where. I was sent there by probation.**
2 **Q** Was it in Paterson or the Paterson
3 area or somewhere else in the state?
4 **A It was somewhere else in the state.**
5 **Q** Do you recall any other landmarks
6 either by turnpike, parkway exit number, anything
7 else?
8 **A No, when they transport you inside the**
9 **van, the windows and stuff be blocked up.**
10 **Q** How long was the first program?
11 **A 30 days.**
12 **Q** And did you successfully complete the
13 program?
14 **A Yes.**
15 **Q** Was the program for substance abuse?
16 **A I was sent there just for my**
17 **behaviors.**
18 **Q** And what type of behaviors were you
19 sent there for?
20 **A In drug court they said drug dealing**
21 **is a behavior, they said drug dealing is just as**
22 **addictive as using drugs, so that was what I was**
23 **sent there for.**
24 **Q** Did you receive any mental health
25 services while you were there?
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1 **A No.**
2 **Q** Did you receive -- participate in any
3 type of like group therapy or talking to a
4 psychologist while you were there?
5 **A You got to participate in those type**
6 **of things but I didn't talk to a psychiatrist or**
7 **anything.**
8 **Q** So you did participate in some type of
9 mental health treatment while you were at Sunrise
10 House; is that fair to say?
11 **A I guess, yes.**
12 **Q** And you said there was a second
13 program?
14 **A Yes.**
15 **Q** When was that?
16 **A In 2010, 2011.**
17 **Q** And what was the name of that program?
18 **A I can't remember the name of that**
19 **program right now.**
20 **Q** Do you remember where it was?
21 **A Secaucus.**
22 **MR. SEXTON:** Cura?
23 **THE WITNESS:** No, it wasn't Cura.
24 **A No, it was Integrity House.**
25 **Q** How long was the Integrity House
26 **VITALE REPORTING SERVICE (732) 223-1263**

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1 program?
2 **A Like six months.**
3 **Q** And what was the purpose of your
4 admission to that program?
5 **A Probation.**
6 **Q** Was it similar to the Sunrise House
7 program, only longer?
8 **A Yes.**
9 **Q** And fair to say you received some type
10 of mental health counseling while you were there
11 as part of the program?
12 **A Yes.**
13 **Q** Other than at Sunrise House and
14 Integrity House, have you ever had any mental
15 health counseling or treatment or anything like
16 that other than those two programs?
17 **A No.**
18 **Q** And that's both before and after this
19 incident, correct? Those are the only two?
20 **A Yes.**
21 **Q** When in your life did you first start
22 to experience anxiety?
23 **A When? I didn't feel -- I didn't have**
24 **any type of anxiety until after this situation.**
25 **Q** Now, you said you smoked marijuana to
26 **VITALE REPORTING SERVICE (732) 223-1263**

<p style="text-align: right;">178</p> <p>1 deal and self-medicate with the anxiety, correct?</p> <p>2 A Um-hum.</p> <p>3 Q Yes?</p> <p>4 A Yes.</p> <p> Q When did you start smoking marijuana?</p> <p>6 A I started smoking marijuana young but 7 that was for recreation, for fun. I started 8 smoking it later, I started getting different 9 effects from it after the situation where it just 10 calms me down and relaxes me from when I get 11 tense and stuff like that.</p> <p>12 Q So fair to say -- well, let me ask you 13 this.</p> <p>14 Approximately what age did you start smoking 15 marijuana?</p> <p>16 A Probably like 16 or 17.</p> <p>17 Q And how old are you now?</p> <p>18 A 35.</p> <p>19 Q So from age 17 to 35, you smoked 20 marijuana fairly consistently throughout with the 21 exception of your incarcerations; is that 22 correct? Is that a fair statement?</p> <p>23 A Not all the time.</p> <p>24 Q How often do you smoke marijuana now?</p> <p>25 A Now I smoke often. I didn't smoke VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">180</p> <p>1 smoking a lot then. I was just -- I was just 2 getting off parole so it was kind of --</p> <p>3 Q When did you switch from a couple of 4 times a month to a couple of times a week?</p> <p>5 A After everything happened and I came 6 home and I was kind of like -- I was stressed 7 out. I switched to a couple of times a week when 8 I started going through like the process for the 9 case, like going through that, going through the 10 stuff and all the stuff, like that's when it 11 really went up to a lot, like being stressed out, 12 it was my stress relief.</p> <p>13 Q And now that the charges are 14 dismissed, did you go back to your couple of 15 times a month?</p> <p>16 A Now I went down. I don't smoke as 17 much as I used to during that period.</p> <p>18 Q So what are you smoking currently?</p> <p>19 A Currently maybe two to three times a 20 week. During that period, I was smoking every 21 day.</p> <p>22 Q So do you have an understanding about 23 why now you choose to smoke two to three times a 24 week when prior to you were smoking a couple of 25 times a month?</p> <p style="text-align: right;">VITALE REPORTING SERVICE (732) 223-1263</p>
<p style="text-align: right;">179</p> <p>1 often then.</p> <p>2 Q How often is often? Can you give me 3 an idea?</p> <p>4 A Couple of times a week.</p> <p>5 Q And prior to 2019, how often did you 6 smoke marijuana?</p> <p>7 A A couple of times a month.</p> <p>8 Q When you were arrested in 2018 for the 9 marijuana, how often were you smoking at that 10 time?</p> <p>11 A At that time, around the same time, 12 like a couple of times a week around that time.</p> <p>13 Q So in 20 --</p> <p>14 A In 2018, I probably like just got off 15 parole so I just really started smoking again so 16 it wasn't a lot. I just started parole.</p> <p>17 Q And after you completed parole, you 18 started smoking, that's when you got arrested for 19 attempting to buy or buying marijuana, correct?</p> <p>20 A Yes.</p> <p>21 Q When you got arrested, you can use 22 that as a frame of reference, how often were you 23 smoking then?</p> <p>24 A Probably like a couple of times a 25 month. Couple of times a month because I wasn't VITALE REPORTING SERVICE (732) 223-1263</p>	<p style="text-align: right;">181</p> <p>1 A Now, I just -- I started because my -- 2 when I started going through everything, it went 3 up to where I was smoking every day and now it's 4 going back down where like I smoke maybe a couple 5 of times, two to three times a week. Not every 6 day no more.</p> <p>7 Q Is it your expectation you're 8 eventually going to go back to a couple of times 9 a month?</p> <p>10 A That's my plan. I can't actually 11 stop, period.</p> <p>12 Q And now that it's legal, you don't 13 have to.</p> <p>14 A Yeah. I still do plan on stopping.</p> <p>15 Q Is it fair to say you have no training 16 in correctional procedures and practices? Is 17 that a fair statement?</p> <p>18 A No.</p> <p>19 Q Is it fair to say you were never 20 trained in how to be a corrections officer?</p> <p>21 A Yes.</p> <p>22 Q And is it fair to say you have no 23 particular experience in county corrections 24 procedures? Is that a fair statement?</p> <p>25 A No. VITALE REPORTING SERVICE (732) 223-1263</p>

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1 Q It's not a fair statement?

2 A No.

3 Q So what is your training or experience

4 in county corrections procedures?

5 A Experience.

6 Q And that is based on being?

7 A Being incarcerated, going through the

8 process.

9 Q Can you estimate for me how many days

10 you've been incarcerated in a county facility?

11 A A lot.

12 Q If you had to give me your best

13 estimate --

14 A Over a year.

15 Q You spent over a year in county

16 corrections, correct?

17 A Yes.

18 Q And that has all been up at Passaic

19 County Corrections, correct?

20 A Yes.

21 Q Do you have any knowledge as to

22 whether Passaic County Corrections does it right,

23 does it wrong or anything else?

24 A No.

25 Q Have you ever taken any classes in

VITALE REPORTING SERVICE (732) 223-1263

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1 county corrections or county corrections

2 management?

3 A No. I've read plenty of handbooks.

4 MR. SEXTON: Off the record.

5 (Discussion off the record.)

6 MS. DVORAK: At one point in this

7 litigation, counsel, this is just a note for

8 you, you indicated that you would not be

9 providing some of the tax returns. I take

10 it based on today's conversation, you'll be

11 revisiting that?

12 MR. SEXTON: Yes.

13 Q Other than your lost wages, have you

14 suffered any other monetary losses that you're

15 claiming in this litigation?

16 A No.

17 Q Are there any activities you can no

18 longer do as a result of the events which

19 occurred?

20 A Just only like big events, like if

21 there's a lot of police there, I'm not going. I

22 just can't be -- I really get very nervous now

23 if I see too many police officers.

24 Q Okay. Other than that, anything else?

25 A No.

VITALE REPORTING SERVICE (732) 223-1263

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1 Q You sure? This is your chance.

2 A That's it. That's pretty much it.

3 Like if I go to a bigger event or anything, like

4 if I see a group of police officers, I just start

5 sweating, getting drenched in sweat and there's

6 nothing I can do about it. Just automatically I

7 just leave without paying for the tickets or

8 anything, I just leave because I can't enjoy

9 myself being there now.

10 Q You make any distinction between

11 police officers and corrections officers?

12 A Yeah.

13 Q Any problems with corrections

14 officers?

15 A I haven't seen any since I've been --

16 so I can't really say.

17 Q Does your feelings about how you deal

18 with and react when you're around police

19 officers, does it have anything to do with

20 corrections officers?

21 A If I -- I'm pretty sure if I see them

22 in uniform, I'm probably going to get -- probably

23 have the same reaction.

24 Q That hasn't happened.

25 A It just hasn't happened. I haven't

VITALE REPORTING SERVICE (732) 223-1263

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1 seen any corrections officers or anything like in

2 uniform to say that, but I'm like kind of pretty

3 sure if I see them in uniform, it's going to

4 probably happen.

5 MS. DVORAK: I am going to take a look

6 at my notes. I don't think I have anything

7 further. I'm not sure if Fred has anything

8 further in follow-up.

9 MS. MEYERS: I would just like to

10 place on the record that when this

11 deposition began, there was a stay of

12 discovery as to my clients so I would like

13 to reserve the right to depose plaintiff

14 should the prosecutors have to move forward

15 with discovery.

16 MS. DVORAK: I don't think I have

17 anything else. I'm going to continue to

18 look while you're talking.

19 MR. RUBENSTEIN: I only have a few

20 more questions.

21 REDIRECT EXAMINATION BY MR. RUBENSTEIN:

22 Q Mr. Parks, while you were at the

23 Woodbridge Police Department, did any of the

24 officers take a written statement from you, an

25 oral statement which was then put into writing?

VITALE REPORTING SERVICE (732) 223-1263

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1 **A I guess that's what he was doing when**
2 **he had me in the interrogation room.**
3 **Q And during that statement, were you**
4 **advised what you were being charged with or what**
the facts were that were why you were there?
5 **A No, because after he told me, he said**
6 **one thing to me like "You know what you did," and**
7 **I was like I want a lawyer, so I think that**
8 **stopped the questioning.**
9 **Q And while you were at the Township of**
10 **Woodbridge Police Department, did any of the**
11 **officers refer to you in a racially derogative**
12 **way?**
13 **A I didn't hear any racially words but I**
14 **heard a lot of "That's the mother fucker right**
15 **there," "That's the prick right right there,"**
16 **"That's the asshole right there" and that sort**
17 **of --**
18 **Q But you would agree that they didn't**
19 **say anything that was, at least in your mind,**
20 **racially motivated.**
21 **A No, there was not at that time.**
22 **MR. SEXTON: Objection to form.**
23 **You're asking about race is his tone and**
24 **race is -- and then you switched it to**
25 **VITALE REPORTING SERVICE (732) 223-1263**

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1 **racially motivated so --**
2 **Q Was there anything about your time at**
3 **the Woodbridge Police Department that led you to**
4 **believe that race was a factor at all in what was**
5 **going on there?**
6 **A I believe that was why I -- I believe**
7 **my race and my background was the reason why they**
8 **kept -- why they kept going after me. I do**
9 **believe that.**
10 **Q So you believe that race was a factor**
11 **in this matter.**
12 **A Yes.**
13 **Q The picture of the person that I**
14 **showed you earlier, what race was he?**
15 **A He was black.**
16 **Q And so was there any -- do you have**
17 **any reason to believe that they were trying to**
18 **hold you accountable for what happened that day**
19 **based solely on your race?**
20 **A Yes.**
21 **Q And what --**
22 **A I'm black, he's black. He has a**
23 **jacket, he had a criminal background, we got our**
24 **conviction.**
25 **Q Do you know if Mr. Barrington was**
VITALE REPORTING SERVICE (732) 223-1263

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1 **convicted of this?**
2 **A I'm -- I wasn't talking about his**
3 **criminal background. I was talking about my**
4 **criminal background.**
5 **Q So when you were talking about your**
6 **background, his background, they got a**
7 **conviction, what did you mean by that?**
8 **A I wasn't -- I didn't say --**
9 **Q If I misheard you, I apologize. Can**
10 **you just repeat what you said?**
11 **A I said he's black, I'm black. When**
12 **they looked at my name, once they looked at my**
13 **name and came up, once they seen my background,**
14 **he's black and he has a conviction, we got him.**
15 **That's it.**
16 **Q The person whose fingerprints came**
17 **back to you eventually, was he a black individual**
18 **or was he a white individual or was he an Asian**
19 **individual, do you know?**
20 **A I don't know any of that.**
21 **MR. SEXTON: Asked and answered. You**
22 **got to ask your question again.**
23 **Q So you don't know the race of the**
24 **person who you claim or who is claimed to have**
25 **committed this offense.**
VITALE REPORTING SERVICE (732) 223-1263

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1 **MR. SEXTON: Objection. He's answered**
2 **that. He answered contrary to what you just**
3 **said.**
4 **A At the time? Are you asking at the**
5 **time or --**
6 **Q As of today.**
7 **A As of today, I know he's black.**
8 **Q So when you were giving -- when the**
9 **Woodbridge Police were taking a statement from**
10 **you, at the onset of the statement, that's when**
11 **you gave -- you said you wanted an attorney; is**
12 **that correct?**
13 **A Yes.**
14 **Q And did they stop asking you questions**
15 **at that point in time?**
16 **A Yes.**
17 **MR. RUBENSTEIN: Great. I believe**
18 **that is it.**
19 **MS. DVORAK: I have nothing else.**
20 **(Witness excused.)**
21 **(Deposition concluded at 4:22 p.m.)**
22
23
24
25 **VITALE REPORTING SERVICE (732) 223-1263**

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEW JERSEY
3 CIVIL ACTION NO. 2:21-cv-04021

4 NIJEER PARKS,
Plaintiff,

6 -vs- CERTIFICATE

7 JOHN E. McCORMACK, et al,

8 Defendants.

9 -----

10 I, MARYANN C. MEISTER, the officer before
11 whom the foregoing deposition was taken, do hereby
12 certify that the witness whose testimony appears in the
13 foregoing deposition was duly sworn by me, and that
14 said deposition is a true record of the testimony given
15 by said witness; that I am neither attorney nor counsel
16 for nor related to or employed by any of the parties to
17 the action in which the deposition was taken; and
18 further that I am not a relative or employee of any
19 attorney or counsel employed by the parties hereto or
20 financially interested in the action.

21

22

23 NOTARY PUBLIC AND CERTIFIED SHORTHAND REPORTER

24 License No. XI00901 Dated: _____

25

VITALE REPORTING SERVICE (732) 223-1263

EXHIBIT “K”

**WOODBRIIDGE POLICE DEPARTMENT
I.D. BUREAU REPORT**

Date: 01-26-2019 Alarm#: 19010123 Case #: _____
Type of Crime: Agg Assault PD, Shoplifting
Victims Name: Hampton Inn Address: 370 US HWY 9 N Hopelawn NJ
Location of Incident: SAA
I.D. Detective: Quesada C.I.D. Detective: Det. S. Tapia
Arrival Time: 1230 Departure Time: 1330
Scene Processed? Yes ☒ No ☐
Scene Photographed? Yes ☒ No ☐ Photo File #: 014-19

Items Processed for Latent Prints	Location	Process Type	Results
<u>Glass Door</u>	<u>SAA</u>	<u>Metalic Powder</u>	<u>Lifted 3 prints off glass door</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Prepared for AFIS Entry: Yes ☒ No ☐

Narrative:

Responded to the Hampton Inn, for a shoplifting turned robbery and agg assault on PD. The scene was processd and photos taken that were placed of 2 discs 1 of 1 w 45 images and 2 of 2 with 17 images. Photos consited of the damge to patrol car #3 and damge to building from the suspect crashing into it. A water bottlole that office saw the suspect drink and place into trash can was recovered. Above 3 prints recovered from glass door the suspet ran out from. The suspect sneaker that he lost during foot pursuit was recovered. All property abd CD's will be prepered for evidence or DNA comparison.

I.D. Detective: Quesada

Date: 1-26-19

WPD-062 (10/05-b)

PARKS000097

**WOODBRIIDGE POLICE DEPARTMENT
I.D. BUREAU REPORT**

Date: 01-26-2019 Alarm#: 19010123 Case #: _____
Type of Crime: Agg Assault PD, Shoplifting
Victims Name: Hampton Inn Address: 370 US HWY 9 N Hopelawn NJ
Location of Incident: SAA
I.D. Detective: Quesada C.I.D. Detective: Det. S. Tapia
Arrival Time: 1230 Departure Time: 1330
Scene Processed? Yes ☒ No ☐
Scene Photographed? Yes ☒ No ☐ Photo File #: 014-19

Items Processed for Latent Prints	Location	Process Type	Results
<u>Glass Door</u>	<u>SAA</u>	<u>Metalic Powder</u>	<u>Lifted 3 prints off glass door</u>
<u>Vehicle outside driver window & inteior</u>	<u>Tow Yard</u>	<u>metalic powder</u>	<u>5 useable prints lifted</u>
<u>Febreze air fresher spray bottles</u>	<u>Lab</u>	<u>metalic powder</u>	<u>Neg</u>
<u>2 Lighter</u>	<u>Lab</u>	<u>metalic powder</u>	<u>Neg</u>
<u>cell phone charger</u>	<u>Lab</u>	<u>metalic powder</u>	<u>Neg</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Prepared for AFIS Entry: Yes ☒ No ☐

Narrative:

Responded to the Hampton Inn. for a shoplifting turned robbery and agg assault on PD. The scene was processed and photographed, photos were placed of 2 discs 1 of 1 w 45 images and 2 of 2 with 17 images. Photos consisted of the damage to patrol car #3 and damage to building from the suspect crashing into it. A water bottle that office observed the suspect drink and place into trash can was recovered. Above 3 prints recovered from glass door the suspect ran out from. The suspect sneaker that he lost during the foot pursuit was recovered. Consent search was conducted on the MV and additional prints and property were recovered and photographed. Prints recovered from MV and property will be sent out for processing. A Vape pen was recovered in the vehicle and a DNA along with THC test will be requested. An additional water bottle was recovered by patrol in a bag of property he dropped during the foot pursuit will be sent out for DNA along with a bag of suspected marijuana. Two Fabreze Air freshener spray bottles were recovered in MV w/Neg results. All property, prepared for evidence or DNA analysis. JMQ 1,2,3,12,13,14,15,16 was sent to Afis

I.D. Detective: Quesada

Date: 1-26-19

PARKS000098

EXHIBIT “L”

REQUEST FOR LATENT FINGERPRINT EXAMINATION						BB1225 B0207 19
STATE OF NEW JERSEY DEPT. OF LAW & PUBLIC SAFETY IDENTIFICATION & INFORMATION TECHNOLOGY POST OFFICE BOX 7068 W. TRENTON, NEW JERSEY 08628			THIS PACKAGE CONTAINS POTENTIAL SUSPECT IDENTIFICATION. IT IS INCUMBENT UPON THE SUBMITTING AGENCY TO PROVIDE POSITIVE ID FOR PROSECUTORIAL PURPOSES. LAW ENFORCEMENT FINAL VERIFICATION: NAME: _____ DATE: _____ AGENCY: _____			
SUBMITTED AT: <input type="checkbox"/> W. TRENTON: 609-882-2000 EXT. 2461 <input checked="" type="checkbox"/> HOLMDEL: 732-441-4500 EXT. 7225 <input type="checkbox"/> BUENA VISTA: 609-561-1800 EXT. 3326			SUBMITTING AGENCY AND ADDRESS: Woodbridge Police 1 main st Woodbridge NJ 07095 SUBMITTING AGENCY CASE NUMBER: 19010123			
INVESTIGATION OFFICER:		ORI NUMBER: NJ 0122500		TELEPHONE NUMBER: 732 634-7700 ext 2114		
CRIME: 2C:12-1B(2) 2C: 20-11		CRIME DATE: 01/26/19		SUSPECT: UNK		
BRIEF HISTORY: Shoplifting turned Robbery with Aggravated Assault on Police.						
ITEM #	COMMENT	CANDIDATE FBI NUMBER	CANDIDATE SBI NUMBER	FING/PALM NUMBER	LIFT ID/PATTERN TYPE/MINUTIAE	
JMQ1		382204AE1		LP LP	(01-01) PALM 106 PTS (01-02) PALM 51 PTS	
JMQ2		382204AE1		LP	(02-01) PALM 106 PTS	
JMQ3					NS	
JMQ12					NS	
JMQ13					NS	
JMQ14					NS	
JMQ15					NS	
JMQ16					NS	
COMMENTS:						
DELIVERED BY: [Signature] 325		RECEIVED BY: (INITIALS/DATE) [Signature] 2-8-19		ADMINISTRATIVE REVIEW BY: (INITIALS/DATE) TWZ 19-19		
ENTERED BY: (INITIALS/DATE) [Signature] 2-13-19		COMPARED BY: (INITIALS/DATE) [Signature] 2-14-19				
RETURNED TO: (INITIALS/DATE) [Signature] 375		RETURNED BY: (INITIALS/DATE) [Signature] 2-22-19				
RELAUNCH ID BY: (INITIALS/DATE)		TP/UL ID BY: (INITIALS/DATE)		IAFIS BY: (INITIALS/DATE) 2-14-19. [Signature] LS/WB		
IN THE EVENT THAT THIS CRIME IS CLEARED, EITHER AS A RESULT OF LATENT SEARCH OR OTHER MEANS, PLEASE ADVISE THE BIOMETRIC IDENTIFICATION UNIT.						

EXHIBIT “M”

**WOODBIDGE POLICE DEPARTMENT
ID BUREAU SUSPECT REPORT**

Date: 01-26-2019

Alarm #: 19010123

Case#: _____

Suspect's Name: Walker, Barrington A
Address: 240 West 141 St Manhattan, NY
DOB: 02/28/1993
SOC: _____

Sex: Male
SBI#: -
FBI#: 382204AE1
WPD#: -

Latents Submitted to AFIS? Yes ☒
Date Submitted: 02-08-2019
Return Date: 02-22-2019

No ☐ NA ☐
Submitted By: ID Tech W. Trevena #375
Returned By: ID Tech W. Trevena #375

Results of AFIS Submission

Latent Finger Print #: JMQ-2
Latent Finger Print #: _____
Latent Finger Print #: _____

Identified as # Left Palm Finger
Identified as # _____ Finger
Identified as # _____ Finger

Identification Made By: Det. Douglas Cioni #476
Identification Confirmed By: Lt. J Velez #332

Date: 01-22-2021

Date: 01-22-2021 *gs/332*

Narrative:

The above listed individual was supplied by New Jersey State Police A.F.I.S. (Automated Fingerprint Identification System). The candidate was supplied as a result from a hit within AFIS. The individuals rolled impressions supplied by NJSP AFIS were then compared to the latent fingerprint discovered on the Hampton Inn exit door (above listed alarm #). The latent, similar in pattern, also displayed at least twenty exact minutea details making the latent an exact match with the left palm impression of Barrington Walker.

I.D. Detective: _____

[Signature]
Signature

Date: _____

1-22-21

Completed

WPD-063 (10/05-b)

EXHIBIT “N”

COMPLAINT - WARRANT**COMPLAINT NUMBER****1225****W****2019****000156**

COURT CODE

PREFIX

YEAR

SEQUENCE NO

THE STATE OF NEW JERSEY**VS.****NIJEER K PARKS****WOODBIDGE MUNICIPAL COURT****1 MAIN STREET****WOODBIDGE****NJ 07095-0000****732-636-6430** COUNTY OF: **MIDDLESEX**

ADDRESS:

485 E. 19TH ST. APT # 3G**PATERSON****NJ 07522-0000**

of CHARGES

CO-DEFTS

POLICE CASE #:

5**0****19010123**

DEFENDANT INFORMATION

SEX: **M** EYE COLOR: **BROWN**DOB: **09/11/1987**DRIVER'S LIC. #: **P06195927209872**DL STATE: **NJ**SOCIAL SECURITY #: **xxx-xx-x832**

SBI #:

TELEPHONE #:

()

LIVSCAN PCN #:

COMPLAINANT **DET. S TAPIA**
NAME: **1 MAIN ST.****WOODBIDGE****NJ 07095**

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about 01/26/2019 in **WOODBIDGE TWP**, **MIDDLESEX** County, NJ did: WITHIN THE JURISDICTION OF THIS COURT, COMMIT AGGRAVATED ASSAULT BY ATTEMPTING TO CAUSE BODILY INJURY TO OFFICER LEE, A LAW ENFORCEMENT OFFICER, ACTING IN THE PERFORMANCE OF HIS DUTIES, WHILE IN UNIFORM, SPECIFICALLY BY ATTEMPTING TO STRIKE HIM WITH A VEHICLE WHILE RESISTING ARREST. IN VIOLATION OF N.J.S. 2C:12-1B(5) (A).

WITHIN THE JURISDICTION OF THIS COURT, KNOWINGLY POSSESS A WEAPON, NAMELY, A 2018 DODGE CHALLENGER BEARING NEW YORK REGISTRATION JBD2162 UNDER CIRCUMSTANCES NOT MANIFESTLY APPROPRIATE FOR LAWFUL USE, SPECIFICALLY BY ATTEMPTING TO USE THE VEHICLE AS A WEAPON TO STRIKE OFFICER LEE. IN VIOLATION OF N.J.S. 2C:39-5D

WITHIN THE JURISDICTION OF THIS COURT, POSSESS A WEAPON, OTHER THAN A FIREARM, WITH A PURPOSE TO USE IT UNLAWFULLY AGAINST THE PERSON OR PROPERTY OF ANOTHER. in violation of:

Original Charge	1) 2C:12-1B(5) (A)	2) 2C:39-5D	3) 2C:39-4D
-----------------	--------------------	-------------	-------------

Amended Charge

CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Signed: **PTL. S TAPIA**Date: **01/30/2019**

You will be notified of your **Central First Appearance/CJP** date to be held at the **Superior Court** in the county of **MIDDLESEX** at the following address: **MIDDLESEX SUPERIOR COURT**

56 PATERSON STREET

Date of Arrest:

Appearance Date:

Time:

NEW BRUNSWICK**NJ 08901-0000**Phone: **732-645-4300****PROBABLE CAUSE DETERMINATION AND ISSUANCE OF WARRANT**

☐ Probable cause IS NOT found for the issuance of this complaint.

Signature of Court Administrator or Deputy Court Administrator

Date

Signature of Judge

Date

☒ Probable cause IS found for the issuance of this complaint. **DAVID STAHL JUDICIAL OFFICER** **01/30/2019**

Signature and Title of Judicial Officer Issuing Warrant

Date

TO ANY PEACE OFFICER OR OTHER AUTHORIZED PERSON: PURSUANT TO THIS WARRANT YOU ARE HEREBY COMMANDED TO ARREST THE NAMED DEFENDANT AND BRING THAT PERSON FORTHWITH BEFORE THE COURT TO ANSWER THE COMPLAINT.

Bail Amount Set: _____ by: _____

(if different from judicial officer that issued warrant)

☐ Domestic Violence - Confidential

☐ Related Traffic Tickets
or Other Complaints

☐ Serious Personal Injury/ Death
Involved
Special conditions of release:

- ☐ No phone, mail or other personal contact w/victim
☐ No possession firearms/weapons
☐ Other (specify):

ORIGINAL**Page 1 of 10****NJ/CDR2 1/1/2017**

PARKS000001

COMPLAINT - WARRANT

COMPLAINT NUMBER

1225

W

2019

000156

STATE V.

NIJEER K PARKS

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

SPECIFICALLY BY PURPOSELY ATTEMPTING TO STRIKE OFFICER LEE WITH A 2018 DODGE CHALLENGER BEARING NEW YORK REGISTRATION JBD2162.
IN VIOLATION OF N.J.S. 2C:39-4D

WITHIN THE JURISDICTION OF THIS COURT, COMMIT AGGRAVATED ASSAULT BY PURPOSELY ATTEMPTING TO CAUSE SERIOUS BODILY INJURY TO OFFICER LEE SPECIFICALLY BY DRIVING AT HIM WITH THE 2018 DODGE CHALLENGER BEARING NEW YORK REGISTRATION JBD2162.
IN VIOLATION OF N.J.S. 2C:12-1B(1)

WITHIN THE JURISDICTION OF THIS COURT, COMMIT AGGRAVATED ASSAULT BY PURPOSELY ATTEMPTING TO CAUSE BODILY INJURY TO OFFICER LEE WITH A DEADLY WEAPON, SPECIFICALLY BY DRIVING AT HIM WITH THE 2018 DODGE CHALLENGER BEARING NEW YORK REGISTRATION JBD2162.
IN VIOLATION OF N.J.S. 2C:12-1B(2)

Original Charge	4) 2C:12-1B(1)	5) 2C:12-1B(2)	
Amended Charge			

COMPLAINT - WARRANT

Page 2 of 10

NJCPR2 1/12/17

PARKS000002

COMPLAINT – WARRANT (Court Action)

COMPLAINT NUMBER

1225 **W** **2019** **000156**

COURT CODE PREFIX YEAR SEQUENCE NO.

STATE V.

NIJEER K PARKS

FTA Bail Information		Date Bail Set: _____	Amount Bail Set: \$ _____	by: _____	<input type="checkbox"/> Bail Recog. Attached
Released on Bail (v)	R.O.R.	Committed Default	Committed w/o Bail	Place Committed: _____	
Date of First Appearance: _____		<input type="checkbox"/> Advised of Rights by _____			Defendant Desires Counsel: <input type="checkbox"/> Yes <input type="checkbox"/> No
Prosecuting Attorney Information			Defense Counsel Information		
Name: _____			Name: _____		
State	County	Municipal	Other	None	Retained
				Public Def	Assigned
				Waived	Other
Original Charge	1) 2C:12-1B(5)(A)		2) 2C:39-5D		3) 2C:39-4D
Amended Charge					
Waiver Indt/Jury					
Plea/Date of Plea	Plea: _____	Date: _____	Plea: _____	Date: _____	Plea: _____ Date: _____
Adjudication (* see code)	Finding Code: _____	Date: _____	Finding Code: _____	Date: _____	Finding Code: _____ Date: _____
Jail Term	Jail time credit	Susp. Imp	Jail time credit	Susp. Imp	Jail time credit Susp. Imp
Probation Term		Susp. Imp		Susp. Imp	Susp. Imp
Cond. Discharge Term					
Community Service					
D/L Suspension Term					
Fines/Costs	Fines: _____	Costs: _____	Fines: _____	Costs: _____	Fines: _____ Costs: _____
VCCB/SNSF	VCCB: _____	SNSF: _____	VCCB: _____	SNSF: _____	VCCB: _____ SNSF: _____
DEDR/Lab Fee	DEDR: _____	LAB: _____	DEDR: _____	LAB: _____	DEDR: _____ LAB: _____
CD Fee/Drug Ed Fnd	CD: _____	DAEF: _____	CD: _____	DAEF: _____	CD: _____ DAEF: _____
DV Surch/Other Fees	DV: _____	Other: _____	DV: _____	Other: _____	DV: _____ Other: _____
Restitution Beneficiary: _____					

Miscellaneous Information, Adjournments, Companion Complaints, Co-Defendants, Case Notes:

* Finding Codes

- 1 - Guilty
- 2 - Not Guilty
- 3 - Dismissed - Other
- 4 - Guilty but Merged
- 5 - Dismissed-Rule
- 6 - Dismissed Lack of Prosecution
- 7 - Dismissed - Pros Motion/Vic Req
- 8 - Conditional Discharge
- D - Dismissed- Prosecutor Discretion
- M - Dismissed- Mediation
- P - Dismissed-Plea Agreement
- S - Disposed at Superior
- W - Dismissed-False ID

Related Traffic Tickets and Complaints:

COMPLAINT - WARRANT (Court Action)

JUDGE'S SIGNATURE _____

DATE _____

Page 3 of 10

3 NJCDR2 1/1/2017

PARKS000003

COMPLAINT - WARRANT

COMPLAINT NUMBER				THE STATE OF NEW JERSEY	
1225	W	2019	000156	VS.	
COURT CODE	PREFIX	YEAR	SEQUENCE NO		
WOODBIDGE MUNICIPAL COURT 1 MAIN STREET WOODBIDGE NJ 07095-0000 732-636-6430 COUNTY OF: MIDDLESEX				NIJEER K PARKS ADDRESS: 485 E. 19TH ST. APT # 3G PATERSON NJ 07522-0000	
# of CHARGES 5	CO-DEFTS 0	POLICE CASE #: 19010123		DEFENDANT INFORMATION SEX: M EYE COLOR: BROWN DOB: 09/11/1987 DRIVER'S LIC. #: P06195927209872 DL STATE: NJ SOCIAL SECURITY #: xxx-xx-x832 SBI #: () TELEPHONE #: () LIVESCAN PCN #:	
COMPLAINANT NAME: DET. S TAPIA					

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about 01/26/2019 in **WOODBIDGE TWP**, **MIDDLESEX County, NJ** did:
 WITHIN THE JURISDICTION OF THIS COURT, COMMIT AGGRAVATED ASSAULT BY ATTEMPTING TO CAUSE BODILY INJURY TO OFFICER LEE, A LAW ENFORCEMENT OFFICER, ACTING IN THE PERFORMANCE OF HIS DUTIES, WHILE IN UNIFORM, SPECIFICALLY BY ATTEMPTING TO STRIKE HIM WITH A VEHICLE WHILE RESISTING ARREST.
 IN VIOLATION OF N.J.S. 2C:12-1B(5) (A).

WITHIN THE JURISDICTION OF THIS COURT, KNOWINGLY POSSESS A WEAPON, NAMELY, A 2018 DODGE CHALLENGER BEARING NEW YORK REGISTRATION JBD2162 UNDER CIRCUMSTANCES NOT MANIFESTLY APPROPRIATE FOR LAWFUL USE, SPECIFICALLY BY ATTEMPTING TO USE THE VEHICLE AS A WEAPON TO STRIKE OFFICER LEE.
 IN VIOLATION OF N.J.S. 2C:39-5D

WITHIN THE JURISDICTION OF THIS COURT, POSSESS A WEAPON, OTHER THAN A FIREARM, WITH A PURPOSE TO USE IT UNLAWFULLY AGAINST THE PERSON OR PROPERTY OF ANOTHER,
 in violation of:

Original Charge	1) 2C:12-1B(5) (A)	2) 2C:39-5D	3) 2C:39-4D
Amended Charge			

CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment
 Signed: **PTL. S TAPIA** Date: **01/30/2019**

You will be notified of your **Central First Appearance/CJP** date to be held at the **Superior Court** in the county of **MIDDLESEX**
 at the following address: **MIDDLESEX SUPERIOR COURT**
56 PATERSON STREET **NEW BRUNSWICK NJ 08901-0000**
 Date of Arrest: Appearance Date: Time: Phone: **732-645-4300**

PROBABLE CAUSE DETERMINATION AND ISSUANCE OF WARRANT

☐ Probable cause IS NOT found for the issuance of this complaint.

 Signature of Court Administrator or Deputy Court Administrator Date Signature of Judge Date

☒ Probable cause IS found for the issuance of this complaint. **DAVID STAHL JUDICIAL OFFICER** **01/30/2019**
 Signature and Title of Judicial Officer Issuing Warrant Date
 TO ANY PEACE OFFICER OR OTHER AUTHORIZED PERSON: PURSUANT TO THIS WARRANT YOU ARE HEREBY COMMANDED TO ARREST THE NAMED DEFENDANT AND BRING THAT PERSON FORTHWITH BEFORE THE COURT TO ANSWER THE COMPLAINT.
 Bail Amount Set: _____ by: _____
 (if different from judicial officer that issued warrant)

<input type="checkbox"/> Domestic Violence – Confidential	<input type="checkbox"/> Related Traffic Tickets or Other Complaints	<input type="checkbox"/> Serious Personal Injury/ Death Involved
---	--	--

Special conditions of release:
☐ No phone, mail or other personal contact w/victim
☐ No possession firearms/weapons
☐ Other (specify):

COMPLAINT - WARRANT (DEFENDANT'S COPY)
Page 5 of 10 **NJ/CDR2 1/1/2017**

PARKS000005

COMPLAINT - WARRANT

COMPLAINT NUMBER**1225****W****2019****000156****STATE V.****NIJEER K PARKS**COURT CODE PREFIX YEAR SEQUENCE NO.

SPECIFICALLY BY PURPOSELY ATTEMPTING TO STRIKE OFFICER LEE WITH A 2018 DODGE CHALLENGER BEARING NEW YORK REGISTRATION JBD2162.
IN VIOLATION OF N.J.S. 2C:39-4D

WITHIN THE JURISDICTION OF THIS COURT, COMMIT AGGRAVATED ASSAULT BY PURPOSELY ATTEMPTING TO CAUSE SERIOUS BODILY INJURY TO OFFICER LEE SPECIFICALLY BY DRIVING AT HIM WITH THE 2018 DODGE CHALLENGER BEARING NEW YORK REGISTRATION JBD2162.
IN VIOLATION OF N.J.S. 2C:12-1B(1)

WITHIN THE JURISDICTION OF THIS COURT, COMMIT AGGRAVATED ASSAULT BY PURPOSELY ATTEMPTING TO CAUSE BODILY INJURY TO OFFICER LEE WITH A DEADLY WEAPON, SPECIFICALLY BY DRIVING AT HIM WITH THE 2018 DODGE CHALLENGER BEARING NEW YORK REGISTRATION JBD2162.
IN VIOLATION OF N.J.S. 2C:12-1B(2)

Original Charge	4) 2C:12-1B(1)	5) 2C:12-1B(2)	
Amended Charge			
			COMPLAINT - WARRANT (DEFENDANT'S COPY)
			Page 6 of 10
			N.J.CDR2 1/1/2017

PARKS000006

COMMITMENT

COMPLAINT NUMBER

1225**W****2019****000156**

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

WOODBIDGE MUNICIPAL COURT**1 MAIN STREET****WOODBIDGE****NJ 07095-0000****732-636-6430**COUNTY OF: **MIDDLESEX**

of CHARGES

5

CO-DEFTS

0

POLICE CASE #:

19010123COMPLAINANT **DET. S TAPIA**
NAME: **1 MAIN ST.****WOODBIDGE****NJ 07095****THE STATE OF NEW JERSEY****VS.****NIJEER K PARKS**

ADDRESS:

485 E. 19TH ST. APT # 3G**PATERSON****NJ 07522-0000**

DEFENDANT INFORMATION

SEX: **M** EYE COLOR: **BROWN**DOB: **09/11/1987**DRIVER'S LIC. #: **P06195927209872**DL STATE: **NJ**SOCIAL SECURITY #: **xxx-xx-x832**

SBI #:

TELEPHONE #:

()

LIVESCAN PCN #:

To any Law Enforcement Official of New Jersey, You are commanded to transport this defendant to the Warden of this county who is required to keep the defendant in custody until a release or detention decision is made.

Offense

Aux Offense

Drug Code

Degree

Offense Description

1.

2.

3.

4.

Commitment Reason:

You will be notified of your **Central First Appearance/CJP** date to be held at the **Superior Court**
at the following address: **MIDDLESEX SUPERIOR COURT**
56 PATERSON STREET

in the county of **MIDDLESEX****NEW BRUNSWICK****NJ 08901-0000**

Date of Arrest:

Phone: **732-645-4300**

Signature and Title of Judicial Officer Issuing Warrant

Date

COMMITMENT**Page 7 of 10****NJICDR2 1/1/2017**

PARKS000007

Affidavit of Probable Cause

COMPLAINT NUMBER			
1225	W	2019	000156
<small>COURT CODE</small>	<small>PREFIX</small>	<small>YEAR</small>	<small>SEQUENCE NO</small>
WOODBRIDGE MUNICIPAL COURT 1 MAIN STREET WOODBRIDGE NJ 07095-0000 732-636-6430 COUNTY OF: MIDDLESEX			
<small># of CHARGES</small> 5	<small>CO-DEFTS</small>	<small>POLICE CASE #:</small> 19010123	
<small>COMPLAINANT NAME:</small> DET. S TAPIA 1 MAIN ST. WOODBRIDGE NJ 07095		THE STATE OF NEW JERSEY VS. NIJEER K PARKS <small>ADDRESS</small> 485 E. 19TH ST. APT # 3G PATERSON NJ 07522-0000	
		<small>DEFENDANT INFORMATION</small> <small>SEX: M EYE COLOR: BROWN DOB: 09/11/1987</small> <small>DRIVER'S LIC. #. P06195927209872 DL STATE: NJ</small> <small>SOCIAL SECURITY #: xxx-xx-x832 SBI #: ()</small> <small>TELEPHONE #:</small> <small>LIVESCAN PCN #:</small>	

Purpose: This Affidavit/Certification is to more fully describe the facts of the alleged offense so that a judge or authorized judicial officer may determine probable cause.

1. Description of relevant facts and circumstances which support probable cause that (1) the offense(s) was committed and (2) the defendant is the one who committed it:

On Saturday January 26, 2019, The suspect went in to the Hertz rental located within the Hampton inn hotel on rt.9 No. in Woodbridge with the intent of exchanging a previously rented 2018 grey Challenger bearing New York registration JBD2162 with another Dodge Challenger. He presented a fraudulent Tennessee Driver's License with the name Jamal Owens and the suspect's real picture on it. Woodbridge Police Officers Lyszyk and Officer Lee were dispatched to investigate and the suspect presented them with the Tennessee driver's license. Officer Lyszyk contacted the Tennessee State Police and confirmed that the Tennessee driver's license was fraudulent. When the suspect was confronted by Patrol Officers Lyszyk and Lee, he resisted arrest and ran into the Dodge Challenger. He drove at Officer Lee, rammed the police car and the building. Officer Lee had to jump out of the way to avoid serious injury. Patrol Officers pursued the vehicle for a short distance and lost sight of it. Woodbridge Police I.D. Detective Quesada responded to the Hampton Inn Hotel and processed the scene. The suspect's sneaker, the fake Tennessee driver's license, and a water bottle that the suspect drank out of were brought back to Woodbridge headquarters for further processing. The vehicle was later located by Sgt. Flavell unoccupied on Mattison St. Woodbridge. Sgt. Flavell towed the vehicle to our impound yard for further processing by detectives. I contacted Hertz corporate security manager and I was given consent to search the vehicle. Detective Quesada processed the inside of the vehicle for fingerprints and several prints were lifted. I verified with Officer Lee and Officer Lyszyk that the picture on the fraudulent Tennessee driver's license was the picture of the suspect and they were 100% sure it was the suspect's picture. I sent out the suspect's Tennessee driver's license picture to the Regional Operations Intelligence Center (ROIC) and the New York State Intelligence Center (NYSIC) for facial recognition. On January 27, 2019, I received a high profile comparison to the picture on the fraudulent Tennessee driver's license. The suspect was identified as Nijeer Parks with a date of birth of September 11, 1987 with a last known address of 485 E. 19th St. Apt # 3G Paterson, NJ. I compared the photo on the fraudulent Tennessee driver's license to Nijeer Parks' real New Jersey driver's license and it is the same person.

Affidavit of Probable Cause

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1/1/2017

PARKS000008

Affidavit of Probable Cause

COMPLAINT NUMBER**1225****W****2019****000156**

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

THE STATE OF NEW JERSEY**VS.****NIJEER K PARKS**

2. I am aware of the facts above because: (Included, but not limited to: your observations, statements of eyewitnesses, defendant's admission, etc.)

3. If victim was injured, provide the extent of the injury:

Certification:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Signed: PTL S TAPIA LAW ENFORCEMENT OFFICER

Date: 01/30/2019

Affidavit of Probable Cause**Page 9 of 10****1/1/2017**

PARKS000009

Preliminary Law Enforcement Incident Report

COMPLAINT NUMBER				THE STATE OF NEW JERSEY	
1225	W	2019	000156	VS.	
<small>COURT CODE</small>	<small>PREFIX</small>	<small>YEAR</small>	<small>SEQUENCE NO.</small>	NIJEER K PARKS	
WOODBIDGE MUNICIPAL COURT 1 MAIN STREET WOODBIDGE NJ 07095-0000 732-636-6430 COUNTY OF: MIDDLESEX				ADDRESS: 485 E. 19TH ST. APT # 3G PATERSON NJ 07522-0000	
# of CHARGES 5	CO-DEFTS	POLICE CASE #: 19010123		DEFENDANT INFORMATION	
COMPLAINANT DET. S TAPIA NAME: 1 MAIN ST. WOODBIDGE NJ 07095				SEX: M EYE COLOR: BROWN DOB: 09/11/1987	
				DRIVER'S LIC. #: P06195927209872 DL STATE: NJ	
				SOCIAL SECURITY #: xxx-xx-x832 SBI #: ()	
				TELEPHONE #: ()	
LIVESCAN PCN #:					

Purpose: The Preliminary Law Enforcement Incident Report (PLEIR) is intended to document basic information known to the officer at the time of its preparation. It is recognized that additional relevant information will emerge as an investigation continues. The PLEIR shall be in addition to, not in lieu of, any regular police arrest, incident, or investigation reports. Note that the PLEIR is specific to each defendant charged in an investigation.

- The complaining officer personally observed the offense.
- The offense/incident was recorded using electronic/surveillance via:
 - Dash Camera/MVR/DIVR
 - Surveillance Camera
- The defendant was a stranger to the victim.
- Identification procedures were used by utilizing:
 - Other/Explain Facial recognition
- A weapon was involved in the incident:
 - Other/Explain Vehicle
- Physical evidence was seized/recovered:
 - CDS:
 - *Marijuana
 - *Drug Paraphernalia
 - *Other Type(s) of physical evidence water bottle, sneaker
- The defendant fled, attempted flight, or resisted arrest.
 - *Foot pursuit
 - *Motor Vehicle pursuit
 - *Physical resistance
- The defendant operated a motor vehicle in a manner that endangered public safety.
- The case involves CDS and the evidence was recovered via:
 - Pedestrian Stop
- The case involves a consent search.

Certification:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Signed: PTL. S TAPIA LAW ENFORCEMENT OFFICER Date: 01/30/2019

Preliminary Law Enforcement Incident Report

Page 10 of 10

7/20/2018

PARKS000010

EXHIBIT “O”

COMPLAINT - WARRANT

COMPLAINT NUMBER				THE STATE OF NEW JERSEY VS. NIJEER K PARKS ADDRESS: 485 E. 19TH ST APT. 3G PATTERSON NJ 07522-0000	
1225	W	2019	000158		
COURT CODE PREFIX YEAR SEQUENCE NO					
WOODBIDGE MUNICIPAL COURT 1 MAIN STREET WOODBIDGE NJ 07095-0000 732-636-6430 COUNTY OF: MIDDLESEX					
# of CHARGES 9	CO-DEFTS	POLICE CASE #: 19010123		DEFENDANT INFORMATION SEX: M EYE COLOR: BROWN DOB: 09/11/1987 DRIVER'S LIC. # P06195927209872 DL STATE: NJ SOCIAL SECURITY #: xxx-xx-x832 SBI #: () TELEPHONE #: () LIVESCAN PCN #:	
COMPLAINANT NAME: PTL. A. LYSZYK 1 MAIN STREET ATTN WARRANTS WOODBIDGE NJ 07095					
By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about 01/26/2019 in WOODBIDGE TWP, MIDDLESEX County, NJ did: WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF SHOPLIFTING SPECIFICALLY BY, TAKING THIRTEEN ASSORTED CANDIES AND TWO CLEAR EYE EYE DROPS (TOTAL VALUE \$39,00) FROM THE HAMPTON INN CONCESSION SHELF, CONCEALING THEM IN A BAG, BYPASSING THE REGISTER, WALKING OUT OF THE LOBBY, AND PLACING THEM INSIDE THE VEHICLE HE WAS DRIVING (NY JBD2162) IN AN ATTEMPT TO DEPRIVE HAMPTON INN OF THE FULL RETAIL VALUE OF THE ITEMS. WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF HINDERING SPECIFICALLY BY, GIVING PTL. LEE AND PTL. LYSZYK A FRAUDULENT TENNESSEE DRIVER'S LICENSE, DL # 801527486 JAMAL OWENS DATE OF BIRTH 10-15-1993, THAT CONTAINED HIS PICTURE ON IT IN AN ATTEMPT TO HINDER THE INVESTIGATION. WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF POSSESSION OF MARIJUANA UNDER 50 GRAMS SPECIFICALLY BY, HAVING 44 GRAMS OF SUSPECTED MARIJUANA in violation of:					
Original Charge	1) 2C:20-11B(1)		2) 2C:29-3A(7)		3) 2C:35-10A(4)
Amended Charge					
CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment. Signed: PTL. A. LYSZYK Date: 01/30/2019					
You will be notified of your Central First Appearance/CJP date to be held at the Superior Court in the county of MIDDLESEX at the following address: MIDDLESEX SUPERIOR COURT 56 PATERSON STREET Date of Arrest: Appearance Date: Time: NEW BRUNSWICK NJ 08901-0000 Phone: 732-645-4300					
PROBABLE CAUSE DETERMINATION AND ISSUANCE OF WARRANT					
<input type="checkbox"/> Probable cause IS NOT found for the issuance of this complaint.					
Signature of Court Administrator or Deputy Court Administrator		Date	Signature of Judge		Date
<input checked="" type="checkbox"/> Probable cause IS found for the issuance of this complaint. DAVID STAHL JUDICIAL OFFICER 01/30/2019 <small>Signature and Title of Judicial Officer Issuing Warrant Date</small> TO ANY PEACE OFFICER OR OTHER AUTHORIZED PERSON: PURSUANT TO THIS WARRANT YOU ARE HEREBY COMMANDED TO ARREST THE NAMED DEFENDANT AND BRING THAT PERSON FORTHWITH BEFORE THE COURT TO ANSWER THE COMPLAINT. Bail Amount Set: _____ by: _____ <small>(if different from judicial officer that issued warrant)</small>					
<input type="checkbox"/> Domestic Violence – Confidential		<input type="checkbox"/> Related Traffic Tickets or Other Complaints		<input type="checkbox"/> Serious Personal Injury/ Death Involved	
Special conditions of release: <input type="checkbox"/> No phone, mail or other personal contact w/victim <input type="checkbox"/> No possession firearms/weapons <input type="checkbox"/> Other (specify):				ORIGINAL	
				Page 1 of 13	

PARKS000011

NJCDR2 1/1/2017

COMPLAINT - WARRANT

COMPLAINT NUMBER				STATE V.	NIJEER K PARKS
COURT CODE	PREFIX	YEAR	SEQUENCE NO.		
1225	W	2019	000158		
<p>HALFWAY IN A BLACK PLASTIC BAG WHICH WAS LOCATED IN HIS LEFT JACKET POCKET.</p> <p>WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF POSSESSION OF DRUG PARAPHERNALIA SPECIFICALLY BY, HAVING A MARIJUANA GRINDER, WHICH CONTAINED SUSPECTED MARIJUANA RESIDUE, INSIDE A BLACK PLASTIC BAG THAT WAS LOCATED INSIDE HIS LEFT JACKET POCKET.</p> <p>WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF OBSTRUCTING ADMINISTRATION OF LAW SPECIFICALLY BY, RUNNING AWAY FROM PTL. LEE AND PTL. LYSZYK AFTER BEING TOLD THAT HE WAS BEING PLACED UNDER ARREST.</p> <p>WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF FALSE GOVERNMENT DOCUMENTS SPECIFICALLY BY, HANDING PTL. LEE AND PTL. LYSZYK A FRAUDULENT TENNESSEE DRIVER'S LICENSE, DL # 801527486 JAMAL OWENS DATE OF BIRTH 10-15-1993, THAT CONTAINED HIS PICTURE ON IT IN AN ATTEMPT TO HINDER THE INVESTIGATION.</p> <p>WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF RESISTING ARREST SPECIFICALLY BY, RUNNING AWAY FROM PTL. LEE AND PTL. LYSZYK AFTER BEING TOLD TO STOP RUNNING AND THAT HE WAS UNDER ARREST.</p> <p>WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF ELUDING SPECIFICALLY BY, GETTING INTO A VEHICLE, NY JBD2162, AND DRIVING AWAY AT A HIGH RATE OF SPEED IN A BUSY PARKING LOT AFTER HE WAS GIVEN A SIGNAL, VIA VERBAL COMMANDS AND GUNPOINT, TO PLACE HIS VEHICLE IN PARK AND EXITED IT.</p> <p>WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF CRIMINAL MISCHIEF SPECIFICALLY BY, PURPOSELY RAMMING HIS VEHICLE, NY JBD2162, INTO THE BACK OF WOODBRIDGE POLICE PATROL CAR #3, WHICH CAUSED DAMAGE TO THE REAR DRIVER'S SIDE BUMPER.</p>					
Original Charge	4) 2C:36-2		5) 2C:29-1A		6) 2C:21-2.1C
Amended Charge					
				COMPLAINT - WARRANT	
				Page 2 of 13	
				NJ/CDR2 1/1/2017	

PARKS000012

COMPLAINT - WARRANT

COMPLAINT NUMBER**1225****W****2019****000158****STATE V.****NIJEER K PARKS**

COURT CODE

PREFIX

YEAR

SEQUENCE NO

Original Charge

7) 2C:29-2A(2)

8) 2C:29-2B

9) 2C:17-3A(1)

Amended Charge

COMPLAINT - WARRANT**Page 3 of 13**

NJ/CDR2 1/1/2017

PARKS000013

COMPLAINT – WARRANT (Court Action)

COMPLAINT NUMBER

1225 **W** **2019** **000158**

COURT CODE PREFIX YEAR SEQUENCE NO.

STATE V.

NIJHEER K PARKS

FTA Bail Information		Date Bail Set: _____	Amount Bail Set: \$ _____	by: _____	<input type="checkbox"/> Bail Recog. Attached
Released on Bail (✓)	R.O.R.	Committed Default	Committed w/o Bail	Date Referred to County Prosecutor: _____	
Date of First Appearance: _____		<input type="checkbox"/> Advised of Rights by _____			Defendant Desires Counsel: <input type="checkbox"/> Yes <input type="checkbox"/> No

Prosecuting Attorney Information

Defense Counsel Information

Name:				Name:					
State	County	Municipal	Other	None	Retained	Public Def	Assigned	Waived	Other

Original Charge	1) 2C:20-11B (1)	2) 2C:29-3A (7)	3) 2C:35-10A (4)
Amended Charge			
Waiver Indt/Jury			
Plea/Date of Plea	Plea: _____ Date: _____	Plea: _____ Date: _____	Plea: _____ Date: _____
Adjudication (* see code)	Finding Code: _____ Date: _____	Finding Code: _____ Date: _____	Finding Code: _____ Date: _____
Jail Term	Jail time credit Susp. Imp	Jail time credit Susp. Imp	Jail time credit Susp. Imp
Probation Term	Susp. Imp	Susp. Imp	Susp. Imp
Cond. Discharge Term			
Community Service			
D/L Suspension Term			
Fines/Costs	Fines: _____ Costs: _____	Fines: _____ Costs: _____	Fines: _____ Costs: _____
VCCB/SNSF	VCCB: _____ SNSF: _____	VCCB: _____ SNSF: _____	VCCB: _____ SNSF: _____
DEDR/Lab Fee	DEDR: _____ LAB: _____	DEDR: _____ LAB: _____	DEDR: _____ LAB: _____
CD Fee/Drug Ed Fnd	CD: _____ DAEF: _____	CD: _____ DAEF: _____	CD: _____ DAEF: _____
DV Surch/Other Fees	DV: _____ Other: _____	DV: _____ Other: _____	DV: _____ Other: _____
Restitution Beneficiary: _____			

Miscellaneous Information, Adjournments, Companion Complaints, Co-Defendants, Case Notes:

Related Traffic Tickets and Complaints:

- * Finding Codes**
- 1 – Guilty
 - 2 – Not Guilty
 - 3 – Dismissed – Other
 - 4 – Guilty but Merged
 - 5 – Dismissed-Rule
 - 6 – Dismissed Lack of Prosecution
 - 7 – Dismissed – Pros Motion/Vic Req
 - 8 – Conditional Discharge
 - D – Dismissed- Prosecutor Discretion
 - M – Dismissed- Mediation
 - P – Dismissed-Plea Agreement
 - S – Disposed at Superior
 - W – Dismissed-False ID

COMPLAINT - WARRANT (Court Action)

JUDGE'S SIGNATURE _____

DATE _____

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NJCDR2 1/1/2017

PARKS000014

COMPLAINT – WARRANT (Court Action)

COMPLAINT NUMBER

1225 **W** **2019** **000158**

STATE V.

NIJEER K PARKS

COURT CODE PREFIX YEAR SEQUENCE NO.

FTA Bail Information		Date Bail Set: _____	Amount Bail Set: \$ _____	by: _____	<input type="checkbox"/> Bail Recog. Attached
Released on Bail (v)	R.O.R.	Committed Default	Committed w/o Bail	Place Committed: _____	
Date of First Appearance: _____		<input type="checkbox"/> Advised of Rights by _____			Date Referred to County Prosecutor: _____
					Defendant Desires Counsel: <input type="checkbox"/> Yes <input type="checkbox"/> No

Prosecuting Attorney Information

Defense Counsel Information

Name:				Name:					
State	County	Municipal	Other	None	Retained	Public Def	Assigned	Waived	Other

Original Charge	4) 2C:36-2	5) 2C:29-1A	6) 2C:21-2.1C
Amended Charge			
Waiver Indt/Jury			
Plea/Date of Plea	Plea: _____ Date: _____	Plea: _____ Date: _____	Plea: _____ Date: _____
Adjudication (* see code)	Finding Code: _____ Date: _____	Finding Code: _____ Date: _____	Finding Code: _____ Date: _____
Jail Term	Jail time credit _____ Susp. Imp _____	Jail time credit _____ Susp. Imp _____	Jail time credit _____ Susp. Imp _____
Probation Term	Susp. Imp _____	Susp. Imp _____	Susp. Imp _____
Cond. Discharge Term			
Community Service			
D/L Suspension Term			
Fines/Costs	Fines: _____ Costs: _____	Fines: _____ Costs: _____	Fines: _____ Costs: _____
VCCB/SNSF	VCCB: _____ SNSF: _____	VCCB: _____ SNSF: _____	VCCB: _____ SNSF: _____
DEDR/Lab Fee	DEDR: _____ LAB: _____	DEDR: _____ LAB: _____	DEDR: _____ LAB: _____
CD Fee/Drug Ed Fnd	CD: _____ DAEF: _____	CD: _____ DAEF: _____	CD: _____ DAEF: _____
DV Surch/Other Fees	DV: _____ Other: _____	DV: _____ Other: _____	DV: _____ Other: _____
Restitution Beneficiary: _____			

Miscellaneous Information, Adjournments, Companion Complaints, Co-Defendants, Case Notes:

- * Finding Codes
- 1 – Guilty
 - 2 – Not Guilty
 - 3 – Dismissed – Other
 - 4 – Guilty but Merged
 - 5 – Dismissed-Rule
 - 6 – Dismissed Lack of Prosecution
 - 7 – Dismissed – Pros Motion/Vic Req
 - 8 – Conditional Discharge
 - D – Dismissed- Prosecutor Discretion
 - M – Dismissed- Mediation
 - P – Dismissed-Plea Agreement
 - S – Disposed at Superior
 - W – Dismissed-False ID

Related Traffic Tickets and Complaints:

JUDGE'S SIGNATURE _____

DATE _____

COMPLAINT - WARRANT (Court Action)

Page 5 of 13

NJ/COR2 1/1/2017

PARKS000015

COMPLAINT – WARRANT (Court Action)

COMPLAINT NUMBER

1225 **W** **2019** **000158**

STATE V.

NIJEER K PARKS

COURT CODE PREFIX YEAR SEQUENCE NO

FTA Bail Information				Date Bail Set: _____	Amount Bail Set: \$ _____	by: _____	<input type="checkbox"/> Bail Recog. Attached
Released on Bail (✓)	R.O.R.	Committed Default	Committed w/o Bail	Place Committed: _____			Date Referred to _____
Date of First Appearance: _____				<input type="checkbox"/> Advised of Rights by _____			Defendant Desires Counsel: <input type="checkbox"/> Yes <input type="checkbox"/> No

Prosecuting Attorney Information

Defense Counsel Information

Name:				Name:					
State	County	Municipal	Other	None	Retained	Public Def	Assigned	Waived	Other

Original Charge	7) 2C:29-2A(2)	8) 2C:29-2B	9) 2C:17-3A(1)
Amended Charge			
Waiver Indt/Jury			
Plea/Date of Plea	Plea: _____ Date: _____	Plea: _____ Date: _____	Plea: _____ Date: _____
Adjudication (* see code)	Finding Code: _____ Date: _____	Finding Code: _____ Date: _____	Finding Code: _____ Date: _____
Jail Term	Jail time credit _____ Susp. Imp _____	Jail time credit _____ Susp. Imp _____	Jail time credit _____ Susp. Imp _____
Probation Term	Susp. Imp _____	Susp. Imp _____	Susp. Imp _____
Cond. Discharge Term			
Community Service			
D/L Suspension Term			
Fines/Costs	Fines: _____ Costs: _____	Fines: _____ Costs: _____	Fines: _____ Costs: _____
VCCB/SNSF	VCCB: _____ SNSF: _____	VCCB: _____ SNSF: _____	VCCB: _____ SNSF: _____
DEDR/Lab Fee	DEDR: _____ LAB: _____	DEDR: _____ LAB: _____	DEDR: _____ LAB: _____
CD Fee/Drug Ed Fnd	CD: _____ DAEF: _____	CD: _____ DAEF: _____	CD: _____ DAEF: _____
DV Surch/Other Fees	DV: _____ Other: _____	DV: _____ Other: _____	DV: _____ Other: _____
Restitution Beneficiary: _____			

Miscellaneous information, Adjournments, Companion Complaints, Co-Defendants, Case Notes:

Related Traffic Tickets and Complaints:

- * Finding Codes
- 1 – Guilty
 - 2 – Not Guilty
 - 3 – Dismissed – Other
 - 4 – Guilty but Merged
 - 5 – Dismissed-Rule
 - 6 – Dismissed Lack of Prosecution
 - 7 – Dismissed – Pros Motion/Vic Req
 - 8 – Conditional Discharge
 - D – Dismissed- Prosecutor Discretion
 - M – Dismissed- Mediation
 - P – Dismissed-Plea Agreement
 - S – Disposed at Superior
 - W – Dismissed-False ID

COMPLAINT - WARRANT (Court Action)

JUDGE'S SIGNATURE _____

DATE _____

Page 8 of 13

NJCDR2 1/1/2017

PARKS000016

COMPLAINT - WARRANT**COMPLAINT NUMBER****1225****W****2019****000158**

COURT CODE

PREFIX

YEAR

SEQUENCE NO

WOODBIDGE MUNICIPAL COURT**1 MAIN STREET****WOODBIDGE****NJ 07095-0000****732-636-6430**COUNTY OF: **MIDDLESEX**

of CHARGES

9

CO-DEFTS

POLICE CASE #:

19010123

COMPLAINANT

NAME:

PTL. A.**LYSZYK****THE STATE OF NEW JERSEY****VS.****NIJEER K PARKS**

ADDRESS:

485 E. 19TH ST APT. 3G**PATTERSON****NJ 07522-0000**

DEFENDANT INFORMATION

SEX: **M** EYE COLOR: **BROWN**DOB: **09/11/1987**DRIVER'S LIC. #: **P06195927209872**DL STATE: **NJ**SOCIAL SECURITY #: **xxx-xx-x832** SBI #:

TELEPHONE #:

()

LIVSCAN PCN #:

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about **01/26/2019** in **WOODBIDGE TWP**, **MIDDLESEX** County, NJ did: WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF SHOPLIFTING SPECIFICALLY BY, TAKING THIRTEEN ASSORTED CANDIES AND TWO CLEAR EYE EYE DROPS (TOTAL VALUE \$39,00) FROM THE HAMPTON INN CONCESSION SHELF, CONCEALING THEM IN A BAG, BYPASSING THE REGISTER, WALKING OUT OF THE LOBBY, AND PLACING THEM INSIDE THE VEHICLE HE WAS DRIVING (NY JBD2162) IN AN ATTEMPT TO DEPRIVE HAMPTON INN OF THE FULL RETAIL VALUE OF THE ITEMS.

WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF HINDERING SPECIFICALLY BY, GIVING PTL. LEE AND PTL. LYSZYK A FRAUDULENT TENNESSEE DRIVER'S LICENSE, DL # 801527486 JAMAL OWENS DATE OF BIRTH 10-15-1993, THAT CONTAINED HIS PICTURE ON IT IN AN ATTEMPT TO HINDER THE INVESTIGATION.

WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF POSSESSION OF MARIJUANA UNDER 50 GRAMS SPECIFICALLY BY, HAVING 44 GRAMS OF SUSPECTED MARIJUANA
In violation of:

Original Charge	1) 2C:20-11B(1)	2) 2C:29-3A(7)	3) 2C:35-10A(4)
-----------------	------------------------	-----------------------	------------------------

Amended Charge

CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment

Signed: **PTL. A. LYSZYK**Date: **01/30/2019**You will be notified of your Central First Appearance/CJP date to be held at the Superior Court in the county of **MIDDLESEX**at the following address: **MIDDLESEX SUPERIOR COURT****56 PATERSON STREET****NEW BRUNSWICK****NJ 08901-0000**

Date of Arrest:

Appearance Date:

Time:

Phone: **732-645-4300****PROBABLE CAUSE DETERMINATION AND ISSUANCE OF WARRANT**

☐ Probable cause **IS NOT** found for the issuance of this complaint.

Signature of Court Administrator or Deputy Court Administrator

Date

Signature of Judge

Date

☒ Probable cause **IS** found for the issuance of this complaint. **DAVID STAHL JUDICIAL OFFICER** **01/30/2019**

Signature and Title of Judicial Officer Issuing Warrant

Date

TO ANY PEACE OFFICER OR OTHER AUTHORIZED PERSON: PURSUANT TO THIS WARRANT YOU ARE HEREBY COMMANDED TO ARREST THE NAMED DEFENDANT AND BRING THAT PERSON FORTHWITH BEFORE THE COURT TO ANSWER THE COMPLAINT.

Bail Amount Set: _____ by: _____

(if different from judicial officer that issued warrant)

☐ Domestic Violence – Confidential☐ Related Traffic Tickets
or Other Complaints☐ Serious Personal Injury/ Death
Involved**Special conditions of release:**☐ No phone, mail or other personal contact w/victim☐ No possession firearms/weapons☐ Other (specify): _____**COMPLAINT - WARRANT (DEFENDANT'S COPY)****Page 7 of 13****NJ/CDR2 1/1/2017**

PARKS000017

COMPLAINT - WARRANT

COMPLAINT NUMBER				STATE V.	NIJEER K PARKS
COURT CODE	PREFIX	YEAR	SEQUENCE NO		
1225	W	2019	000158		
HALFWAY IN A BLACK PLASTIC BAG WHICH WAS LOCATED IN HIS LEFT JACKET POCKET.					
WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF POSSESSION OF DRUG PARAPHERNALIA SPECIFICALLY BY, HAVING A MARIJUANA GRINDER, WHICH CONTAINED SUSPECTED MARIJUANA RESIDUE, INSIDE A BLACK PLASTIC BAG THAT WAS LOCATED INSIDE HIS LEFT JACKET POCKET.					
WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF OBSTRUCTING ADMINISTRATION OF LAW SPECIFICALLY BY, RUNNING AWAY FROM PTL. LEE AND PTL. LYSZYK AFTER BEING TOLD THAT HE WAS BEING PLACED UNDER ARREST.					
WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF FALSE GOVERNMENT DOCUMENTS SPECIFICALLY BY, HANDING PTL. LEE AND PTL. LYSZYK A FRAUDULENT TENNESSEE DRIVER'S LICENSE, DL # 801527486 JAMAL OWENS DATE OF BIRTH 10-15-1993, THAT CONTAINED HIS PICTURE ON IT IN AN ATTEMPT TO HINDER THE INVESTIGATION.					
WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF RESISTING ARREST SPECIFICALLY BY, RUNNING AWAY FROM PTL. LEE AND PTL. LYSZYK AFTER BEING TOLD TO STOP RUNNING AND THAT HE WAS UNDER ARREST.					
WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF ELUDING SPECIFICALLY BY, GETTING INTO A VEHICLE, NY JBD2162, AND DRIVING AWAY AT A HIGH RATE OF SPEED IN A BUSY PARKING LOT AFTER HE WAS GIVEN A SIGNAL, VIA VERBAL COMMANDS AND GUNPOINT, TO PLACE HIS VEHICLE IN PARK AND EXITED IT.					
WITHIN THE JURISDICTION OF THIS COURT, COMMIT THE OFFENSE OF CRIMINAL MISCHIEF SPECIFICALLY BY, PURPOSELY RAMMING HIS VEHICLE, NY JBD2162, INTO THE BACK OF WOODBRIDGE POLICE PATROL CAR #3, WHICH CAUSED DAMAGE TO THE REAR DRIVER'S SIDE BUMPER.					
Original Charge	4) 2C:36-2		5) 2C:29-1A		6) 2C:21-2.1C
Amended Charge					
					COMPLAINT - WARRANT (DEFENDANT'S COPY)
					Page 8 of 13 NJODR2 1/1/2017

COMPLAINT - WARRANT

COMPLAINT NUMBER

1225

W

2019

000158

STATE V.

NIJEER K PARKS

COURT CODE

PREFIX

YEAR

SEQUENCE NO

Original Charge

7) 2C:29-2A(2)

8) 2C:29-2B

9) 2C:17-3A(1)

Amended Charge

COMPLAINT - WARRANT (DEFENDANT'S COPY)

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NJCDR2 1/12/2017

PARKS000019

COMMITMENT

COMPLAINT NUMBER

1225**W****2019****000158**

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

WOODBIDGE MUNICIPAL COURT**1 MAIN STREET****WOODBIDGE****NJ 07095-0000****732-636-6430**COUNTY OF: **MIDDLESEX**

of CHARGES

9

CO-DEFTS

POLICE CASE #:

19010123COMPLAINANT
NAME:**PTL. A. LYSZYK****1 MAIN STREET****ATTN WARRANTS****WOODBIDGE****NJ 07095****THE STATE OF NEW JERSEY****VS.****NIJEER K PARKS**

ADDRESS:

485 E. 19TH ST APT. 3G**PATTERSON****NJ 07522-0000**

DEFENDANT INFORMATION

SEX: **M** EYE COLOR: **BROWN**DOB: **09/11/1987**DRIVER'S LIC. #: **P06195927209872**DL STATE: **NJ**SOCIAL SECURITY #: **XXX-XX-X832** SBI #:

TELEPHONE #:

()

LIVESCAN PCN #:

To any Law Enforcement Official of New Jersey, You are commanded to transport this defendant to the Warden of this county who is required to keep the defendant in custody until a release or detention decision is made.

	Offense	Aux Offense	Drug Code	Degree	Offense Description
1.					
2.					
3.					
4.					

Commitment Reason:

You will be notified of your Central First Appearance/CJP date to be held at the Superior Court
at the following address: **MIDDLESEX SUPERIOR COURT**

in the county of **MIDDLESEX****56 PATERSON STREET****NEW BRUNSWICK****NJ 08901-0000**

Date of Arrest:

Phone: **732-645-4300**

Signature and Title of Judicial Officer Issuing Warrant

Date

COMMITMENT**Page 10 of 13****NJCDR2 1/1/2017**

PARKS000020

Affidavit of Probable Cause

COMPLAINT NUMBER				THE STATE OF NEW JERSEY VS. NIJEER K PARKS ADDRESS: 485 E. 19TH ST APT. 3G PATTERSON NJ 07522-0000	
1225	W	2019	000158		
COURT CODE	PREFIX	YEAR	SEQUENCE NO		
WOODBIDGE MUNICIPAL COURT 1 MAIN STREET WOODBIDGE NJ 07095-0000 732-636-6430 COUNTY OF: MIDDLESEX					
# of CHARGES 9	CO-DEFTS	POLICE CASE #: 19010123		DEFENDANT INFORMATION	
COMPLAINANT NAME: PTL. A. LYSZYK 1 MAIN STREET ATTN WARRANTS WOODBIDGE NJ 07095				SEX: M EYE COLOR: BROWN DOB: 09/11/1987 DRIVER'S LIC. #: P06195927209872 DL STATE: NJ SOCIAL SECURITY #: XXX-XX-X832 SBI #: TELEPHONE #: () LIVESCAN PCN #:	

Purpose: This Affidavit/Certification is to more fully describe the facts of the alleged offense so that a judge or authorized judicial officer may determine probable cause.

1. Description of relevant facts and circumstances which support probable cause that (1) the offense(s) was committed and (2) the defendant is the one who committed it:

While investigating a shoplifting of \$39.00 worth of merchandise from Hampton Inn, the hotel manager, Richard Charneco, advised us that Parks was the suspect. Parks told us that he was going to pay for the items, but forgot his money inside his vehicle. He brought the items out to his vehicle, placed them on the seat, and retrieved his money, but did not return to the register to pay for the items. During the investigation, Parks gave us a fraudulent Tennessee driver's license, TN DL# 801527486, with his image on it. After discovering that the identification was false and he admitted to shoplifting, he was told that he was being placed under arrest. He turned around, placed his hands behind his back, and I was able to see a bag of marijuana protruding from his left jacket pocket that was halfway in a black plastic bag. I removed the bag and went to place the handcuffs on him, but he broke free and began to run from us. He ran around the building and made it back to his rented vehicle, NY JBD2162, placed it in reverse and backed up a few feet. We caught up to the vehicle and ordered him at gunpoint to place the vehicle in park and shut it off. After some time, he placed the vehicle in drive, rammed Woodbridge PD patrol car #3 and the pillar to the carport of Hampton Inn, which caused Ptl. Lee to have to move out of the way to prevent him from being struck. After striking the pillar, he placed the vehicle in reverse and sped off at a high rate of speed through the parking lot after he was signaled to stop and get out of his car. After I returned to the scene, I conducted an inventory of the black plastic bag and discovered the marijuana grinder.

Affidavit of Probable Cause

Page 11 of 13

1/1/2017

PARKS000021

Affidavit of Probable Cause

COMPLAINT NUMBER

1225

W

2019

000158

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

THE STATE OF NEW JERSEY

VS.

NIJEER K PARKS

2. I am aware of the facts above because: (Included, but not limited to: your observations, statements of eyewitnesses, defendant's admission, etc.)

Statements that were made by the hotel manager, Charneco, and Parks admitting to taking the items. During the investigation, Parks gave us a fraudulent TN driver's license that had his image on it. When Parks was told he was under arrest, he ended up fleeing by foot, entered his vehicle, NY JBD2162, and rammed Woodbridge PD car #3 and the carport of Hampton Inn. After ramming the carport, he backed the vehicle up and sped off. He ended up getting away, but we still had his fraudulent TN driver's license on us that contained his image. Det. S. Tapia conducted an investigation and submitted the photograph through the Regional Operation Intelligence Center (ROIC) and the New York State Intelligence Center (NYSIC). On Jan. 27, 2019, Det. Tapia received notification from Inv. Seamus Lyons (Rockland County Sheriff's Dept.) and Sgt. Dey (Palisades Interstate Pkwy PD) that they had a high profile comparison to the picture on the fraudulent TN DL. The suspect was identified as Parks.

3. If victim was injured, provide the extent of the injury:

Certification:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Signed: PTL. A. LYSZYK LAW ENFORCEMENT OFFICER

Date: 01/30/2019

Affidavit of Probable Cause

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1/1/2017

PARKS000022

Preliminary Law Enforcement Incident Report

COMPLAINT NUMBER				THE STATE OF NEW JERSEY	
1225	W	2019	000158	VS.	
COURT CODE	PREFIX	YEAR	SEQUENCE NO.		
WOODBIDGE MUNICIPAL COURT 1 MAIN STREET WOODBIDGE NJ 07095-0000 732-636-6430 COUNTY OF: MIDDLESEX				NIJEER K PARKS ADDRESS: 485 E. 19TH ST APT. 3G PATTERSON NJ 07522-0000	
# of CHARGES 9	CO-DEFTS	POLICE CASE #: 19010123		DEFENDANT INFORMATION	
COMPLAINANT PTL. A. LYSZYK				SEX: M	EYE COLOR: BROWN
NAME: 1 MAIN STREET				DOB: 09/11/1987	
ATTN WARRANTS				DRIVER'S LIC. #: P06195927209872	DL STATE: NJ
WOODBIDGE NJ 07095				SOCIAL SECURITY #: xxx-xx-x832	SBI #:
				TELEPHONE #: ()	
				LIVESCAN PCN #:	

Purpose: The Preliminary Law Enforcement Incident Report (PLEIR) is intended to document basic information known to the officer at the time of its preparation. It is recognized that additional relevant information will emerge as an investigation continues. The PLEIR shall be in addition to, not in lieu of, any regular police arrest, incident, or investigation reports. Note that the PLEIR is specific to each defendant charged in an investigation.

- The complaining officer personally observed the offense.
- Another law enforcement officer(s) personally observed the offense, List the officer(s) and their badge#
Ptl. Lee 591
- The charge was based on the observations/statements made by an eyewitness(es).
 - The witness statement(s) were recorded via:
 - Dash Camera/MVR/DIVR
- The defendant made statements/admissions.
 - It was recorded using:
 - Dash Camera/MVR/DIVR
- The offense/incident was recorded using electronic/surveillance via:
 - Dash Camera/MVR/DIVR
 - Surveillance Camera
- Identification procedures were used by utilizing:
 - Other/Explain facial recognition
- Physical evidence was seized/recovered:
 - CDS:
 - Marijuana
 - Drug Paraphernalia
- The defendant fled, attempted flight, or resisted arrest.
 - Foot pursuit
 - Other Explain sped off in vehicle
- The defendant operated a motor vehicle in a manner that endangered public safety.
- The case involves CDS and the evidence was recovered via:
 - Pedestrian Stop

Certification:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Signed: **PTL. A. LYSZYK LAW ENFORCEMENT OFFICER** Date: **01/30/2019**

Preliminary Law Enforcement Incident Report

Page 13 of 13

7/20/2018

PARKS000023

EXHIBIT “P”

CUSTOMER INFORMATION		RENT/RETURN INFORMATION		TOTALS	
NAME: OWENS JAMAL SVC: GUAR: HOME: 3505 GLENGARRY CT KNOXVILLE TN 37921 BUS: 3505 GLENGARRY CT KNOXVILLE TN 37921 DL: 9017***** ST: NJ BD: 04/1992		RENT: 12/28/2018 15:28 NJWOD01 05911-01 RETURN: 01/25/2019 17:00 NJWOD01 05911-01 DUE: 01/25/2019 17:00 NJWOD01 05911-01 EXP RN: Y CLS CHNG: S ARR:FLT N ARR:BUS N		WEEKS 4 @ 205.00 820.00 EX HOUR 2 @ 13.74 27.48 EX DAY @ 41.00	
		RESERVATION INFORMATION RES#: H8942764407 REF: 00318496 RES CLS: F BK: 12/28/2018 15:20 CTRY: USA REM: EXCH NJWOD 0591101 010819 1731 6674345 22283 PREF		SUBTOTAL 847.48	
FORM OF PAYMENT INFORMATION		USER/DRB INFORMATION		VEH UPG TTL @ \$ 44 DY 1276.00 SUBTOTAL 2123.48 % TRANSACTION FEE 15.71 CONCESSION FEE RECOVERY 213.92	
FP: MC XXXXXXXXXXXX1745 EX: 02/2021 FFP: MC XXXXXXXXXXXX1745 EX: 02/2021 AUTH 1: 44866P CC APP:\$ 935.00 DT: 12/28 AUTH 2: DENIED CC APP:\$ 98.00 DT: 01/26		REV MGT USER: 1989/0591101 RENT USER/LOC: 1989/NJWOD01 RETURN USER/LOC: 7456/NJWOD01 LAST PT USER/LOC: 7456/NJWOD01 LAST PN USER/LOC / # COPIES RMT: 1 # COPIES RTN: 1 RENT DT/TM POSTED: 12/28/2018 15:31 RETURN DT/TM POSTED: 01/26/2019 11:49 LAST DT/TM POSTED (CST): 01/26/2019 10:49 GDRB DATE: 01/26/2019 DRB AREA/LOC: 05911-01 RR STATUS: T EXCHANGE: E			
VEHICLE/FUEL INFORMATION					
OWN/VEHICLE: 01998/9199639 MODEL: N1CR YEAR: 2018 LIC: JBD2162 STATE: NY VCLS: V4 COLOR: SIL NEVERLOST: N SATRAD: Y PRESTIGE: N FUEL: 9.99 GL .624 MI TK CAP: 18.5 MI IN: 13568 FUEL IN: 4 MI OUT: 12568 FUEL OUT: 4					
CDP/RATE/MILEAGE		CUSTOMER SATISFACTION		LDW @ 29.99 LIS @ 18.85 P&P @ 6.95 PERS @ 8.99	
		ADDITIONAL EQUIPMENT		TAX SUBTOTAL 2353.11 TAX @ 06625 155.89 TOTAL CHARGES 2509.00	
RT CDP: 99 RN CDP: 99 PLAN IN: OAUW8 OUT: OAUW8 ORIG: OAUW5 BEST: Y RCLS: F UCLS: V4 MIN DAY: 7 LDW: N LIS: N S P&P: N B/L: L DRIVEN: 1000 VDI: X		RT RN CHG DAY WEEK MONTH REPLACE SATRAD: N		DOM SEC FEE 140.00 NET DUE 2649.00	
TOUR INFORMATION					

Rental Record: **183932744** **CORPORATE** **Brand: ZE** **Own:** (Press CTRL+P to Print)

VEHICLE EXCHANGE 1		
VEHCHG: NJWOD01 01/08/2019 17:31		
OWN/VEHICLE: 01894/6674345 DRIVEN: 271		
ORIG RENT LOC: NJWOD01		
VEH ON SITE? Y		
VEHICLE EXCHANGE 2		
VEHICLE EXCHANGE 3		
VEHICLE EXCHANGE 4		

(Press CTRL+F to Print)

PARKS000026

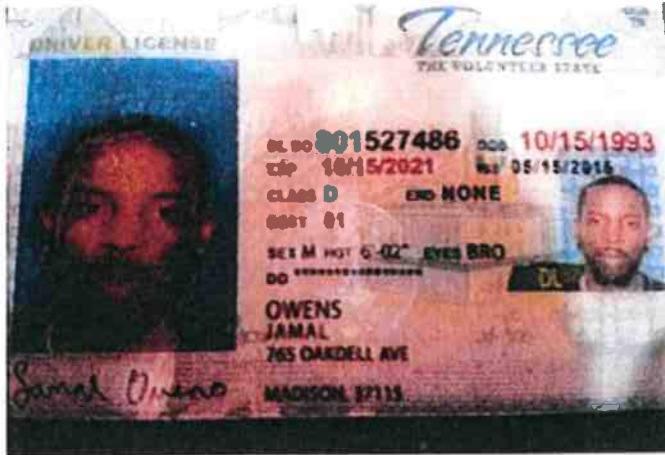
EXHIBIT “Q”

Aggravated Assault on Police / Attempt to I.D.

Sent: 2019-01-27 @ 11:12

Case: 19010123

Author: 481



Fake Tennessy D.L / with the suspect's picture

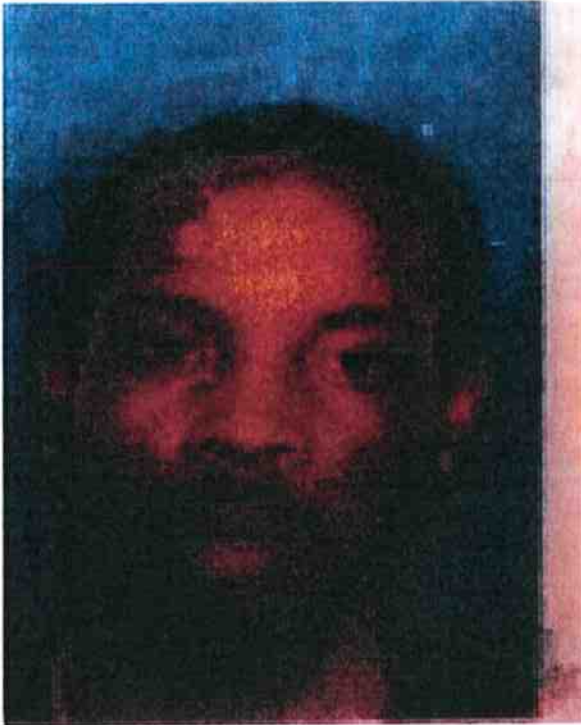
2018 Dodge Challenger / Hertz rental

On Saturday January 26,2019, The suspect depicted above presented the above fake Tennessee D.L. at the Hertz rental car located within the Hampton Inn Hotel on Rt. 9 No. in Woodbridge. When he was confronted by patrol officers, he ran into the above 2018 Dodge Challenger and rammed into the patrol officer's marked police vehicle and nearly struck the officer. The vehicle was located unoccupied nearby but the suspect got away. Inside of the vehicle, we located a Dunkin Donuts receipt from earlier in the morning. The Dunkin Donuts is located on Gun Hill Rd. Bronx, NY. The picture on the D.L. is of the suspect but the other identifiers are false. Anyone who can identify the suspect or requires further information, please contact Det. Tapia at (732) 602-7394 or (732) 675-2555.



WOODBIDGE TOWNSHIP POLICE
(732) 634-7700

Side By Side Comparison



EVENT#: 29000591
SID#: 742831D
NAME: NIJEER
PARKS

ARREST DATE:
AGE AT ARREST: 28
HEIGHT: 508
WEIGHT: 150
HAIR COLOR: BLACK
EYE COLOR: BROWN

MUGSHOT PROFILE

Page 1 of 1



NY/NJ HIDTA MUGSHOT PROFILE

Photo Ref #: **29000591**

NAME: **PARKS, NIJEER K**

AKA:

SSN:

SID#: **7428310**

FBI#:

USMS#:

DOB: **09-11-1987**

SEX: **MALE**

RACE: **BLACK**

HEIGHT: **508**

WEIGHT: **150**

HAIR COLOR: **BLACK**

HAIR LENGTH:

EYE COLOR: **BROWN**

SMT:



ADDRESS:

0

PHONE:

ARREST #: **160804000631**

ARREST DATE:

AGENCY: **NJSP**

CHARGE CODE:

CHARGE DESC:

HIDTA

CONFIDENTIAL FOR LAW ENFORCEMENT USE ONLY

1/28/19

MUGSHOT PROFILE

Page 1 of 1



NY/NJ HIDTA MUGSHOT PROFILE

Photo Ref #: **29000101**

NAME: **PARKS, NIJEER K**

AKA:

SSN:

SID#: **742831D**

FBI#:

USMS#:

DOB: **09-11-1987**

SEX: **MALE**

RACE: **BLACK**

HEIGHT: **507**

WEIGHT: **150**

HAIR COLOR: **BLACK**

HAIR LENGTH:

EYE COLOR: **BROWN**

SMT:



ADDRESS: **240 DONOR AVE
ELMWOOD PK, NEW JERSEY
0**

PHONE:

ARREST#: **160804010919**

ARREST DATE: **02-24-2011**

AGENCY: **NJSP**

CHARGE CODE: **2C:35-10A(1)**

CHARGE DESC:

HIDTA

CONFIDENTIAL FOR LAW ENFORCEMENT USE ONLY

1/28/19

Additional Inquiry Response

ORI: NY043013Y

Rockland County Intelligence Center

New York State Division of Criminal Justice Services

Alfred E. Smith Building, 80 South Swan St.

Albany, New York 12210. Tel:1-800-262-DCJS

Michael C.Green, Executive Deputy Commissioner of the NYS Division of Criminal Justice Services

● III Information

The following information is provided in response to your request for a search of the III based on:

Name: PARKS, NIJEER
Sex: Male
Race: Black
Date of Birth: September 11, 1987
Purpose Code: C

NY043013Y

THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
INQUIRY ON NAM/PARKS, NIJEER K DOB/19870911 SEX/M RAC/B PUR/C ATN/LYONSSI

NAME	FBI NO.	INQUIRY DATE
PARKS, NIJEER	534795PCO	2019/01/28

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	B	1987/09/11	507	145	BRO	BLK	Y

BIRTH PLACE
NEW JERSEY

FINGERPRINT CLASS PATTERN CLASS

ALIAS NAMES

PARKS, NIJEER K PARKS, NIJEER K

SCARS-MARKS-

TATTOOS	SOCIAL SECURITY
ART R ARM	148-82-0832

IDENTIFICATION DATA UPDATED 2018/04/13

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE
FOLLOWING:

NEW JERSEY - STATE ID/NJ742831D

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION
INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

Additional Inquiry Response

ORI: NY043013Y

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New York State Division of Criminal Justice Services

Alfred E. Smith Building, 80 South Swan St.

Albany, New York 12210. Tel: 1-800-262-DCJS

Michael C. Green, Executive Deputy Commissioner of the NYS Division of Criminal Justice Services

● Federal NCIC

WARNING: Release of any NCIC information to unauthorized individuals or agencies, including the subject of the data, is prohibited. Please refer to section 4.2 of the CJIS security policy and Title 28, Part 20 of the code of Federal Regulations for the proper access, use, and dissemination of the information contained in the NCIC restricted and non-restricted files.

The following information is provided in response to your request for a search of the NCIC - Protection Order File based on:

Name:	PARKS, NIJEER
Sex:	Male
Race:	Black
Date of Birth:	September 11, 1987

NY043013Y

NO NCIC PROTECTION ORDER FILE RECORD NAM/PARKS, NIJEER K DOB/19870911 RAC/B SEX/M

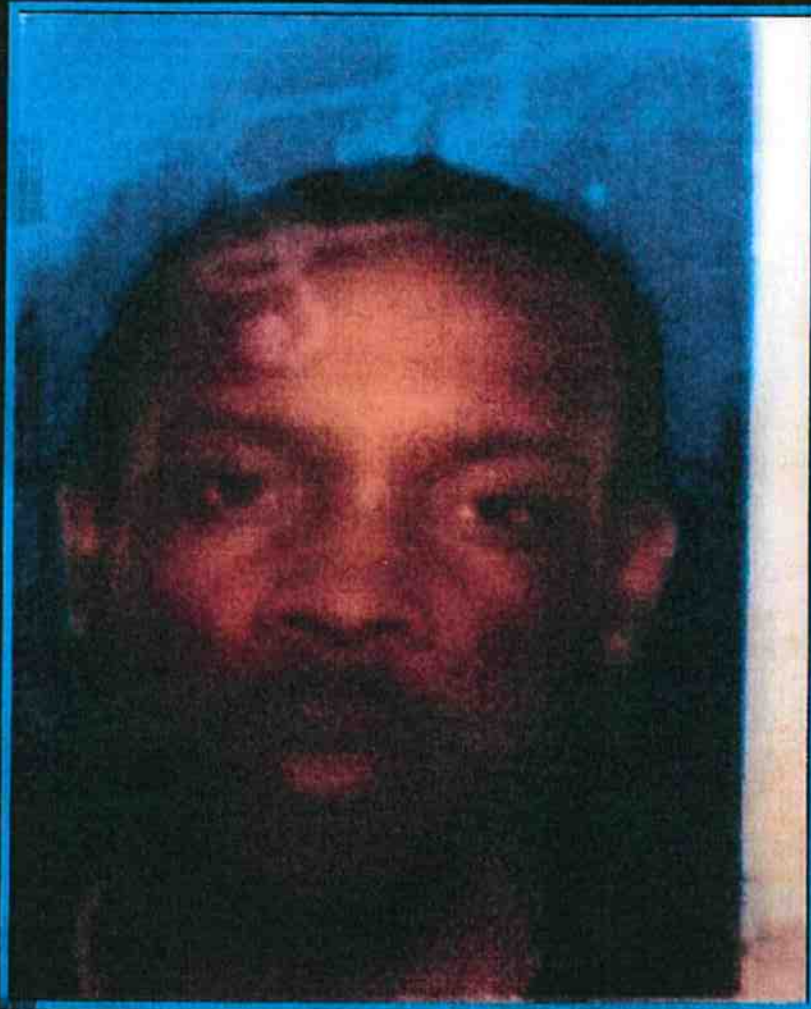


Searches:

☐ Display Probe Beside Each Row

Search Type: **<ALL>** ▼

Probe(s)



594.000

[Compare](#)

[Chart Compare](#)

[Data and Images](#)

[Linked Images](#)

[Mark for Review](#)

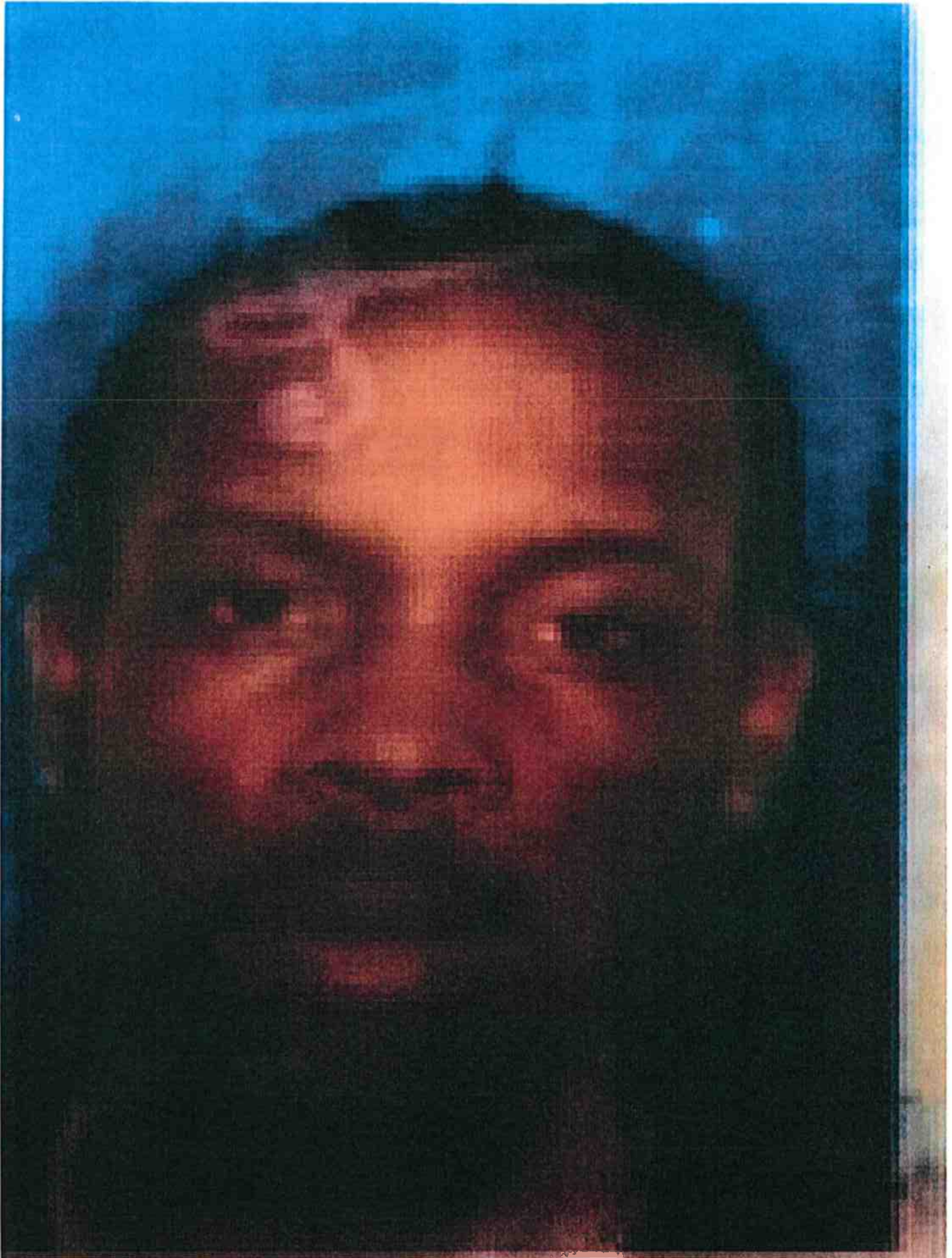
[Remove](#)

[Edit and Add](#) [Edit and Replace](#) [Delete Probe](#)

[Select Probe](#)

[Add/Edit Comment](#)





+	PARKS, NIJEER K	09/XX/1987 31	694 E 24TH ST PATERSON, NJ 07504	02/29/2016	<input type="checkbox"/>
+	PARKS, NIJEER K	09/XX/1987 31	425 E 28TH ST APT 1E PATERSON, NJ 07514	03/04/2016	<input type="checkbox"/>
+	PARKS, NIJEER 148-82-XXXX		400 ELLISON ST APT 2 PATERSON, NJ 07501	06/30/2016	<input type="checkbox"/>
+	PARKS, NIJEER	09/XX/1987 31	694 E 24TH ST PATERSON, NJ 07504	02/29/2016	<input type="checkbox"/>

EXHIBIT “R”

VEHICLE NOTIFICATION REPORT (SHORT FORM)

1. DEPARTMENT Woodbridge		2. ORI NO. NJ0122500		3. DEPT. CASE NO.		4. PROS. CASE NO.		5. INCIDENT NO. 19010123	
6. VICTIM NO. OF VICTIMS 1 of 2		7. OWNERS NAME (LAST, FIRST, MIDDLE) Woodbridge Police Dept.						8. PHONE (AREA) 7326347700-	
9. OWNERS ADDRESS (STREET, MUN., STATE, ZIP) 1 Main St Woodbridge NJ 07095								10. DATE OF LOSS (MM/DD/YYYY) -	
11. LOCATION OF LOSS (STREET, MUN., STATE, ZIP)								12. N.C.I.C. NO. -	
13. FINDER/POSSESSORS NAME (LAST, FIRST, MIDDLE) Woodbridge Police Dept.						14. PHONE (AREA) 732-634-7700		15. DATE N.C.I.C. CANCELLED -	
16. FINDER/POSSESSORS ADDRESS (STREET, MUN., STATE, ZIP) 1 Main St Woodbridge NJ 07095								17. TELETYPE NO. -	
18. LOCATION OF RECOVERY/SEIZURE (STREET, MUN., STATE, ZIP) 370 US HWY 9N								19. DATE OF RECOVERY/SEIZURE 01/26/2019	

20. YEAR -	21. MAKE -	22. MODEL -	23. BODY TYPE -	24. COLOR -	25. REGISTRATION NO. -	STATE	26. V.I.N. / OTHER IDENTIFYING NO. -
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27. LOCATION OF IMPOUND / STORAGE Woodbridge Police Evidence				28. DATE OF STORAGE 2-4-2019		29. CONDITION OF VEHICLE -	
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PROPERTY DESCRIPTION CODE TABLE (ENTER NUMBER IN CODE COLUMN BELOW)				26. RADIO / TV / VCR				50. CRACK				PROPERTY STATUS																							
1. AIRCRAFT				14. GAMBLING EQUIPMENT				27. RECORDINGS-AUDIO / VISUAL				51. OTHER COCAINE				1. STOLEN																			
2. ALCOHOL				15. HEAVY CONST. / INDUST. EQUIP.				28. RECREATIONAL VEHICLES				52. HASHISH				2. LOST																			
3. AUTOMOBILE				16. HOUSEHOLD GOODS				29. STRUCT-SINGLE OCCUPANCY				53. HEROIN				3. FOUND																			
4. BICYCLE				17. JEWELRY / PRECIOUS METALS				30. STRUCT-OTHER DWELLING				54. MARIJUANA				4. SEIZED																			
5. BUS				18. LIVESTOCK				31. STRUCT-COMM / BUSINESS				55. MORPHINE				5. RECOVERED																			
6. CLOTHING / FURS				19. MERCHANDISE				32. STRUCT-INDUST. / MANUFACT.				56. OPIUM				6. BURNED																			
7. COMPUTER HARD. / SOFT.				20. MONEY				33. STRUCT-PUBLIC / COMMUNITY				57. OTHER NARCOTICS				7. DAMAGED / DESTROYED																			
8. CONSUMABLE GOODS				21. NEGOTIABLE INSTRUMENT				34. STRUCT-STORAGE				58. LSD				8. SAFEKEEPING																			
9. CREDIT / DEBIT CARDS				22. NON-NEGOTIABLE INST.				35. STRUCT-OTHER				59. PCP				9. COUNTERFEITED																			
11. DRUGS / NARCOTIC EQUIP.				23. OFFICE EQUIPMENT				36. TOOLS				60. OTHER HALLUCINOGENS				DISPOSITION																			
12. FARM EQUIPMENT				24. OTHER MOTOR VEHICLE				37. TRUCK				61. AMPHETAMINES / METH				1. RETURNED																			
13. FIREARMS				25. PURSE / HANDBAG / WALLET				38. VEHICLE PARTS / ACC				62. OTHER STIMULANTS				2. HELD AS EVIDENCE																			
UNIT OF MEAS.				GM-GRAM KG-KILOGRAM OZ-OUNCE				LB-POUND ML-MILLILITER LT-LITER				FO-FLUID OUNCE GL-GALLON DU-DOSAGE UNIT				NP-NUMBER OF PLANTS EA-EACH				63. BARBITURATES				3. OTHER HELD											
30. ITEM NO.				31. PROP CODE				32. PROP. STATUS				33. ESTIMATED QUANTITY				34. UNIT OF MEAS.				35. DESCRIPTION / O.A.N.				36. SERIAL NUMBER				37. ESTIMATE VALUE				38. DISPOSITION OF ITEM			

30. ITEM NO.	31. PROP CODE	32. PROP. STATUS	33. ESTIMATED QUANTITY	34. UNIT OF MEAS.	35. DESCRIPTION / O.A.N.	36. SERIAL NUMBER	37. ESTIMATE VALUE	38. DISPOSITION OF ITEM
1	8	5	1	EA	1st Nestle Pure Life water, recovered from garbage can labeled JMQ4			2
2	6	5	1	EA	Nike Air Jordan Sneaker belonging to unk suspect, Blk grey and red, Labeled JMQ5			2
3	8	5	1	EA	2st Nestle Pure Life water, recovered from suspects property labeled JMQ6			2
4	77	5	1	EA	"The Kind Pen" Vape Pen suspected THC recovered in vehicle, labeled JMQ7			2
					The listed property was recovered and a DNA & THC test will be requested			
					Nothing Follows			

TOTAL VALUE STOLEN PROPERTY		39. CURRENCY -	40. JEWELRY -	41. FURS -	42. CLOTHING -	43. AUTO -	44. MISCELLANEOUS -
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45. PRINT RANK / OFF. NAME Det. J. Quesada		SIGNATURE <i>Det. J. Quesada</i>		46. BADGE NO. 525	47. REPORT DATE 2-4-2019	48. PAGE NO. 1 of 1	49. REVIEWED BY 472
---	--	-------------------------------------	--	----------------------	-----------------------------	------------------------	------------------------

50. ITEM NO.				51. DATE		52. SIGNATURE		BADGE NUMBER		53. RECEIVED BY		54. PURPOSE FOR CHANGE OF CUSTODY/ PROOF OF OWNERSHIP	
						AUTHORIZED FOR RELEASE				PRINT NAME			
						RELEASED BY				SIGNATURE			
						AUTHORIZED FOR RELEASE				PRINT NAME			
						RELEASED BY				SIGNATURE			
						AUTHORIZED FOR RELEASE				PRINT NAME			
						RELEASED BY				SIGNATURE			

DCJ 2/91

WHITE - TO RECORD ROOM
P / VEH_PROP_SHORTFORM_RPT

YELLOW - TO DETECTIVE BUREAU

PINK - TO PROSECUTORS OFFICE

GOLDENROD - TO

PR1

PARKS000083

EXHIBIT “S”

MIRANDA WARNINGS

1. You have the right to remain silent.
2. Anything you say can be used against you in a court of law.
3. You have the right to talk to a lawyer and to have the lawyer present with you while you are being questioned.
4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish one.
5. You can decide to exercise these rights at any time.

I ACKNOWLEDGE THAT I HAVE BEEN ADVISED OF AND UNDERSTAND THE CONSTITUTIONAL RIGHTS FOUND ON THE REVERSE SIDE OF THIS CARD.

I VOLUNTARILY WAIVE THESE RIGHTS AND I AGREE TO SPEAK WITH YOU NOW.

Print Name x Nijeer Parks
Signature x Nijeer Parks
Date 2-5-19 Time 12:00pm
Witness _____
Incident No. 19010123

WPD-109 (10-18)

EXHIBIT "T"

Reset Form



FACIAL RECOGNITION INITIATIVE

Request for Facial Recognition/Photo Array

If the NJ ROIC Facial Recognition Initiative produces a possible match, this should only be considered an investigative lead. Further investigation is needed to confirm a possible match through other investigative corroborated information and/or evidence.
INVESTIGATIVE LEAD, NOT PROBABLE CAUSE TO MAKE AN ARREST.

Please submit this form by email to: frlab@nvc.nj.gov. For questions or additional information, contact NJ ROIC Analysis at (609) 963-6900, ext. 6240, 6246, 6282, 6969, and 6277.

Date: January 27, 2019		Agency: Woodbridge Police Department	
Requestor: Det. Santiago Tapia #481		Title: Detective	
Email: santiago.tapia@twp.woodbridge.nj.us	Telephone: (732) 675-2555	Fax: (732) 634-2554	
Jurisdiction: Middlesex County		Case Number: 19010123	ORI Number: nj0122500
Supervisor Name Lt. Michael NG	Email: Michael.ng@twp.woodbridge.nj.us	Telephone: (732) 634-7319	

Suspect (If known):

Name: unknown		Alias(es) Jamal Owens
Date of Birth unknown	Race: Black	Gender: Male

Reason for Request:

Please be specific, and include any scars, marks, tattoos, blemishes, or other distinguishing characteristics that your subject may have.
Individual presented Woodbridge officers a fake Tennessee drivers license with his picture on it. When officers confronted him, he attempted to run over the officer with his vehicle, struck the rear of the police car and the side of a building before fleeing the scene. The vehicle was later recovered unoccupied. Inside of the vehicle we found evidence suggesting that he may be from the Bronx NY. I attached a copy of the fake drivers license. The officers are certain the picture on the drivers license is of the suspect. Can you check both NY and NJ database? I attached a copy of the fake drivers license.

For best results, please attach the image(s) separately in jpg format.

For NJ ROIC Use Only

MPTL #:

EXHIBIT “U”

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September 26, 2023

Garry J. Clemente, Esq.
James P. Nolan & Assoc. LLC
61 Green Street,
Woodbridge Township, NJ, 07095

**Re: Nijeer Parks v. Woodbridge Township, et al.
United States District Court, District of New Jersey
Civil Action No: 2:21-cv-04021 MCA LDW
Date of Incident: January 26, 2019
My File No: 222103**

Dear Mr. Clemente:

Pursuant to your request, I have reviewed the following materials and conducted a site inspection on February 18, 2023 related to the above-titled matter:

1. Plaintiffs' Complaints;
2. Woodbridge Police Department Incident Reports #19010123;
3. Woodbridge Police Department Training records of Lt. Edward Barrett, Lt. Joseph Velez, Lt. Michael Ng, D/Sgt. Anthony Penicaro, D/Sgt. Andrew Kondracki, Sgt. Santiago Tapia, Det. Jorge Quesada, Off. Andrew Lyszyk, Off. Francis Lee, & Off. David Mirdala;
4. New Jersey Police Training Commission Performance Objectives;
5. New Jersey Attorney General Guidelines;
6. New Jersey Criminal Law;
7. Woodbridge PD, Professional Standards Bureau IA Unit 2021-501 file;
8. Woodbridge Police Department Rules and Regulations;
9. Woodbridge PD Internal Affairs Policy & Procedures Revised November and the Attorney General August 2020 Version;
10. Woodbridge Police Department Policies & Procedures # 430, 431, 432, 620;
11. New Jersey Uniform Crime Report;
12. Plaintiff discovery Responses;
13. Woodbridge Discovery Responses;

PARKS000193

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14. Deposition Transcript of Nijeer Parks;
15. Deposition Transcript of Officer Lee;
16. Deposition Transcript of Detective Tapia;
15. Deposition Transcript of Officer Lyszyk;
17. Deposition Transcript of Detective Quesada;
18. Deposition Transcript of Director Robert Hubner;
19. Woodbridge Township eCode;
20. U.S. Department of Homeland Security, Bureau of Justice Assistance, U.S. Department of Justice, Face Recognition Policy Development Template, December 2017;
21. U.S. Department of Justice, National Institute of Justice, Strengthen Science, Advance Justice, History of NIJ Support for Face Recognition Technology, March 5, 2020;
22. U.S. Department of Commerce, National Institute of Standards and Technology, Facial Recognition Technology, February 6, 2020;
23. New Jersey State Police Practical Guide to Intelligence-led Policing, The New Jersey Regional Operations and Intelligence Center (ROIC) Task Force;
24. The IJIS & IACP Guiding Principles for Law Enforcement Use of Facial Recognition Technology July 2019;
25. Security Industry.org / center-of-excellence/ What Science Really Says About Facial Recognition Accuracy and Bias Concerns;
26. Deposition Transcript of Lt. Barrett;
27. Report of Ralph Cilento - Blue Top Consulting.

It is my professional opinion based on the available information received to date, that the Township of Woodbridge, the Woodbridge Township Police Department and its members, including Police Director Hubner and Police Officers, Lt. E. Barrett, Lt. J. Velez, Lt. M. Ng, D/Sgt. Anthony Penicaro, D/Sgt. Andrew Kondracki, Sgt. Santiago Tapia, Det. Jorge Quesada, Off. Andrew Lyszyk, Off. Francis Lee, & Off. David Mirdala, involved with this incident of January 26, 2019, acted in a professional manner, in accordance with accepted New Jersey Training Standards, accepted New Jersey Police Practices and Procedures, New Jersey Attorney General Guidelines, Woodbridge Township Police Department Rules, Regulations and Procedures, and New Jersey Law. My opinions are based on a reasonable degree of certainty in the field of law enforcement and the following:

My thirty-year law enforcement career with the New Jersey State Police, and the training and experience I received while a member.

I attained the rank of Major and became a Staff Officer participating in the policy making and command decisions of the organization.

- My Designation as a Certified Public Manager (CPM) by the State of New Jersey and Rutgers University in November of 1984. CPM is part of a national effort to develop effective management skills through training and education of supervisors and managers in State and local safety community. CPM is a certification program for public sector managers and supervisors to maintain and improve the effectiveness

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and professionalism of government managers.

- The degree of Associate in Science (Criminal Justice) from the Mercer County Community College in May of 1982.
- Having gone through the hiring process to become a law enforcement officer; having been a part of the investigating process to become a law enforcement officer; and having been the officer-in-charge of the oral interview board in the process of hiring law enforcement officers for the New Jersey State Police, I am very familiar with the hiring process.
- As the Captain of the New Jersey State Police Narcotic Bureau and Major of the Emergency Management Section and Deputy State Director of the Office of Emergency Management, I established positions and developed the criteria for promotion of enlisted and civilian personnel under my command.
- As the Captain of the New Jersey State Police, I prepared an annual budget for the Narcotic Bureau. As Major of the New Jersey State Police Emergency Management Section and Deputy State Director of the Office of Emergency Management, my responsibility included receiving and disbursing funding from the Federal Emergency Management Agency and the New Jersey Radiological Emergency Response Program.
- As a supervisor in the New Jersey State Police I participated in the disciplinary procedures and policies of bringing charges against my subordinates. I also served as a hearing officer in court-martials. As a Major and Staff Officer I was a Hearing Officer in General Court martials with the authority to recommend suspension upon a finding of guilty.
- September, 1990 Retired from the New Jersey State Police and formed J.C. Consulting Services, Inc. as a New Jersey licensed Private Detective, and consultant. On November 8, 1990, founding partner of Triangle IV Enterprises, a private investigations business. Founding partner of Planned Building Security, Inc., a uniformed security and guard business.

Township of Woodbridge Demographics

The New Jersey 2016 Uniform Crime Report list the Township of Woodbridge as an Urban Suburban area of 23.10 square miles, with an estimated population of 102,105 with 184 sworn police employees and 62 civilian employees.

- URBAN SUBURBAN Near an urban center but not as extremely developed and more residential areas.

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Township of Woodbridge Police Department Enabling Ordinance

POLICE DEPARTMENT RULES AND REGULATIONS: TOWNSHIP ORDINANCE
"CREATION AND ESTABLISHMENT OF A POLICE DEPARTMENT AND A BUREAU OF
EMERGENCY MANAGEMENT WITHIN THE TOWNSHIP OF WOODBRIDGE"
ORDINANCE NO. 98-92

TOWNSHIP OF WOODBRIDGE
COUNTY OF MIDDLESEX
STATE OF NEW JERSEY

AN ORDINANCE AMENDING, REVISING AND SUPPLEMENTING THE TOWNSHIP CODE
OF THE TOWNSHIP OF WOODBRIDGE AS TO THE ESTABLISHMENT OF A POLICE
DEPARTMENT AND A BUREAU OF EMERGENCY MANAGEMENT

WHEREAS, the Township of Woodbridge previously adopted as Article 11 of the code of the
Township of Woodbridge an ordinance creating and governing a police department within the
Township; and,

WHEREAS, the Department is presently engaged in a process of departmental accreditation through
the Commission On Accreditation For Law Enforcement Agencies (CALEA); and,

WHEREAS, the Township of Woodbridge desires to bring its enabling ordinance into conformity
with the national accreditation standards and state statutes;

NOW THEREFORE, BE IT ORDAINED by the Township Council of the Township of Woodbridge
that the Township Code of the Township of Woodbridge be amended, revised and supplemented as
follows:

Section I: Article 11 of the Code of the Township of Woodbridge be hereby repealed in its
entirety.

Section 2: There is hereby created, ratified and adopted a new Article to be entitled "Department of
Police" and to read as follows:

Section 1. The ordinances of the Township of Woodbridge in the County of Middlesex, State of
New Jersey, of a general and permanent nature, as codified, Chapters I to XXXV hereby ordained
and shall be adopted as "The Revised General Ordinances of the Township of Woodbridge, 1996."

Article XI, Police Department provides in relevant part:

2-18 POLICE DEPARTMENT.

2-18.1 Establishment; Personnel.

There is hereby established in the Township of Woodbridge a Police Department which shall consist of such members and employees as deemed necessary by the Appointing Authority and may include a Police Director, Deputy Police Director, and/or a Chief of Police. (N.J.S.A. 40A:14-118) (Ord. #98-92 § 2; Ord. #11-10 § 1; Ord. #11-14 § 1)

2-18.2 General Duties of the Police Department.

The Police Department shall preserve the peace; protect life and property; detect, arrest and prosecute offenders of the laws of New Jersey and the ordinances of the Township of Woodbridge; direct and control traffic; provide attendance and protection during emergencies; provide appearances in court; cooperate with all other law enforcement agencies; and, provide training for the efficiency of its members and employees. (N.J.S.A. 40A:14-118) (Ord. #98-92 § 2)

2-18.6 Appointment.

No person shall be appointed to the Police Department who is not qualified as provided in the New Jersey Statutes. The Appropriate Authority may also require that the applicant for appointment to the Police Department successfully complete a physical, medical and psychological examination. (Ord. #98-92 § 2)

2-18.9 Police Training Course.

a. No person shall be given or accept a permanent appointment as a police officer unless they successfully complete a police training course at a school approved and authorized by the Police Training Commission in the Department of Law and Public Safety of the State of New Jersey, pursuant to the provisions of N.J.S.A. 52:17B-66 et seq.

b. This subsection shall not prohibit the giving or accepting of probationary or temporary appointment as a police officer for a period not to exceed one (1) year, to enable a person seeking a permanent appointment to complete a police training course as prescribed by the Police Training Commission. (Ord. #98-92 § 2)

2-18.13 Established; Police Director; Appointment.

The head of the Division shall be the Police Director, who shall be appointed by the Mayor and shall be the executive head of the Division. (Ord. #11-10 § 4)

2-18.14 Duties of Police Director.

The Police Director shall be charged with the duties of supervising the Department of Police in all areas and aspects as it shall impact upon policy and the good order and discipline of the Department and shall adopt rules and regulations for the Police Department and establish policies for the daily operation of the Police Department and the discipline of its members. These duties shall be consistent with the authority permitted to be vested in the Police Director pursuant to N.J.S.A. 40A:14-118 and shall include, but not be limited to:

- a. Have charge and responsibility for all property of the Township used by the Division of Police.
- b. Keep a record of all business transacted by the Division of Police and

- shall approve all bills for the expense of the Division.
- c. Keep and maintain an accurate record and submit an annual report to the Mayor and Township Council, on or before January 1, which report shall assess the operations of the Division, and its personnel, equipment and property.
 - d. Keep and maintain all records, reports, documents and data required to be kept and maintained by the Federal and/or State government and/or any of their respective subdivisions.
 - e. Keep and maintain a record of all appointments, dismissals, removals, resignations and deaths of officers as they take place, with such other information as may be necessary.
 - f. Have responsibility for developing the annual budget for the Division of Police and shall be responsible for overseeing any and all expenditures of the Division.
 - g. Analyze crime trends and statistics to ensure that the Division makes the best use of available funds, personnel, equipment and supplies.
 - h. Evaluate effectiveness of work program and procedures of all units and bureaus within the Division and develop effective work methods for subordinates.
 - i. Undertake special studies pertaining to public safety functions and promote close coordination of planning efforts.
 - j. Establish and maintain helpful and cooperative relations with civic and business organizations, schools, and court offices, and with other groups and public authorities and other jurisdictions, and with others interested in the maintenance of law and order.
 - k. All such other duties not specifically reserved to the Chief of Police pursuant to N.J.S.A. 40A:14-118. (Ord. #11-10 § 5)

It is my professional opinion that the Township of Woodbridge appropriately and properly established the Adopting Ordinance to form the Woodbridge Police Department, which included the process of a departmental accreditation through the Commission On Accreditation For Law Enforcement Agencies (CALEA); in accordance with accepted New Jersey Police Practices and Law.

The Woodbridge Township Police Department is an accredited Law Enforcement Agency.

Accreditation by C.A.L.E.A.

Accreditation and compliance to professional standards provides the yardstick by which the community, Police Administration, Mayor and Township Council can qualitatively measure their performance and ensure accountability of their actions.

No matter how effective daily operations are, there is always room for improvement.

The Meaning of Accreditation

Essentially, accreditation is a seal of approval from an independent agency. By being accredited, these organizations illustrate the pursuit of excellence in their particular line of work and their willingness to meet and exceed industry standards.

In many fields, obtaining organizational accreditation is common practice. Colleges and hospitals, for instance, regularly participate in an accreditation process.

In the field of law enforcement, the Commission on Accreditation for Law Enforcement Agencies (CALEA) is the non-profit agency that grants accreditation. It was formed in 1979 by four major law enforcement bodies; the International Association of Chiefs of Police, Police Executive Research Forum, National Organization of Black Law Enforcement Executives, and the National Sheriff's Association. Law enforcement agencies may voluntarily apply for accreditation, as many across North America have done. Over 700 agencies are currently accredited by CALEA with many more in various stages of the accreditation process.

Accreditation is a progressive and time-proven way of helping law enforcement agencies calculate and improve their overall performances. The foundation of Accreditation lies in the adoption of standards containing a clear statement of professional objectives. Participating agencies conduct a thorough self-analysis to determine how existing operations can be adapted to meet these objectives. When the procedures are in place, a team of trained assessors verifies that applicable standards have been successfully implemented. Accreditation status represents a significant professional achievement.

The attitudes, training and actions of personnel of New Jersey's law enforcement agencies best reflect compliance with the standards contained in this program. Policy and procedure based on Accreditation will not insure a crime-free environment for citizens, nor will it ensure an absence of litigation against law enforcement agencies and executives.

However, effective and comprehensive leadership through professionally based policy development is directly influenced by a law enforcement program that is comprehensive, obtainable and based on standards that reflect professional service delivery.

Scope of the Standards

The standards cover six general areas:

1. Roles, responsibilities and relationships with other agencies;
2. Organization, management and administration;
3. Personnel administration;
4. Law enforcement operations, operational support and traffic law enforcement;

5. Prisoner and court related services; and
6. Auxiliary and technical services.

CALEA currently maintains 462 standards related to these areas. However, it was not necessary for the Woodbridge Police Department to re-write every policy and procedure to meet CALEA standards.

Instead, the Woodbridge Police Department worked to confirm that existing operations and management conform to the spirit of the standards, formalize any unwritten or unstated policies, correct any deficiencies in operations, and refine and contemporize other procedures where necessary.

In the end, the standards simply tell the Woodbridge Police Department what it has to do. Just how they do it will still be based on accepted policing techniques in Woodbridge and the needs of the community.

Benefits of Accreditation

It is difficult to attach a dollar value to the benefits of the accreditation process. However, for the police and the public, the benefits are nevertheless numerous and tangible.

From the perspective of members of the public, the accreditation process:
Reinforces the Woodbridge Police Department's devotion to professionalism and a body of precise and high standards; and ensures the Woodbridge Police Department uses a consistent and evenhanded approach to applying effective and responsive policies.

To the Woodbridge Police Department the accreditation process will:
Enhance the reputation of the police service, and help attract the most qualified and suitable applicants;
Increase morale by giving personnel faith in the Woodbridge Police Department's effectiveness, and in the fairness of internal systems; and
Provide state-of-the-art, up-to-date policy and procedures manuals.

And to other law enforcement agencies and components of the criminal justice system, accreditation:
Improves interactions and strengthens relationships; and Promotes standardization of policies, and increases efficiency in handling joint investigations and referrals.

Ultimately, the existence of thorough standards gives the public, police and elected policy makers a norm against which to evaluate the Woodbridge Police Department's performance.

Woodbridge Police Director Robert Hubner testified in his deposition on October 28, 2022 on page 49, line 21, in relevant part: "We are CALEA certified nationally, that's how we develop our policies and procedures. I think we were first accredited in 1998, so it's been a long ongoing relationship that

we intend on keeping.”

It is my professional opinion that the Accreditation is a process and time-proven method of assisting law enforcement agencies to calculate and improve their overall performance. The foundation of Accreditation lies in the adoption of standards containing a clear statement of professional objectives. Participating agencies conduct a thorough self-analysis to determine how existing operations can be adapted to meet these standards and objectives. When the procedures are in place, a team of trained, independent assessors verifies that the applicable standards have been successfully implemented.

It is also my professional opinion that the CALEA accredited Woodbridge Police Department is a highly professional police organization with all of the necessary Rules, Regulations, Policies and Directives to efficiently, professionally, and effectively carry out all of the police functions of a New Jersey Police Agency, in accordance with accepted New Jersey police practices and procedures.

It is my further professional opinion that the Accredited status represents a significant professional achievement. Accreditation acknowledges the implementation of policies and procedures that are conceptually sound and operationally effective.

TRAINING

New Jersey Law N.J.S.A. 52:17B-66 et seq. “Statutory and Commission Requirements Pertaining to the Police Training Act” provides “.....that no person shall hereinafter be given or accept a permanent appointment as a police officer unless such person has successfully completed a police training course at an approved school” According to this Act, the appointing authority shall make certain that the police officer:

- Completes the required training within one year of the date of appointment
or
- Begins, or is scheduled to begin, the required training within one year of the date of appointment. The training must be completed within 18 months after the date of appointment.

The mandatory training objectives include the following functional areas:

- 1.0 Professional Development
- 2.0 Criminal Justice Systems
- 3.0 Police Community Relations
- 4.0 Law
- 5.0 Legal requirements of Arrest, Search, Seizure, Evidence, and Use of Force
- 6.0 Communications
- 7.0 Vehicle Operations
- 8.0 Emergency Medical Care

- 9.0 Weaponry and Unarmed Defense
- 10.0 Patrol Concepts
- 11.0 Traffic
- 12.0 Criminal Investigations
- 13.0 Physical Fitness
- 14.0 Practical Exercises
- 15.0 Agency Training

The Woodbridge Township Police Department Policies & Procedures Agency Training Chapter 430 provides in relevant part:

430.1 POLICY & PURPOSE:

430.1.1

POLICY: It will be the policy of the Woodbridge Township Police Department to implement, and maintain, a comprehensive agency training program for all agency employees. The nature of police service imposes strong intellectual, emotional, and ethical demands on police officers. Police officers must deal with extremely complicated and unusual situations which often require innovative problem solving approaches. To meet these challenges, police officers must be alert, resourceful, decisive, and most significantly trained. Training, as such, has often been cited as one of the most important responsibilities in any law enforcement agency. For these reasons one of the goals of this agency is to provide continuous training for all members of the department. The training function within this department is designed to prepare new officers to conform to the high standards expected of them, to maintain and develop skills of in-service personnel, and to provide supervisory and command officers with the skills, knowledge and abilities to perform their assigned tasks. Officers who are well trained will generally be better prepared to act decisively and correctly in a broad spectrum of situations. Training will also impact upon greater productivity and effectiveness, as well as, foster cooperation and unity of purpose, thereby enabling this department to achieve its overall mission.

430.1.2

PURPOSE: The purpose of police training and education programs is to enable officers to develop and maintain the skills, attitude and good judgment necessary for the effective performance of their duties. To that end, the purpose of this directive is to outline the various training initiatives utilized by this department to adequately train, its personnel, and to assign responsibility and accountability for all training programs.

The Woodbridge Township Police Department Policies & Procedures Agency Training Chapter 431, Recruit Training, provides in relevant part:

431.1 Policy & Purpose

431.1.1

POLICY: It will be the policy of the Woodbridge Township Police Department to require all recruits

to successfully complete the New Jersey Police Training Commission's certified recruit academy training program prior to assuming sworn status as a Police Officer.

431.1.2

PURPOSE: The purpose of this policy is to preclude assigning personnel to positions requiring the carrying of a weapon, enforcing the law, or making arrests until they successfully complete a structured basic training course.

A review of the training records of Lt. Edward Barrett, Lt. Joseph Velez, Lt. Michael Ng, D/Sgt. Anthony Penicaro, D/Sgt. Andrew Kondracki, Sgt. Santiago Tapia, Det. Jorge Quesada, Off. Andrew Lyszyk, Off. Francis Lee, and Off. David Mirdala, revealed that each of Woodbridge Police Department members successfully completed the required training provisions of the N.J. Law, the N.J. Police Training Commission and the Woodbridge Township requirements.

It is my professional opinion that the members of the Woodbridge Township Police Department were properly trained in accordance with the New Jersey Law, New Jersey Police Training Commission Performance Objectives and the Woodbridge Township requirements.

The Woodbridge Township Police Department Policies & Procedures Agency Training Chapter 432, In-Service Training, provides in relevant part:

432.1 POLICY & PURPOSE:

432.1.1

POLICY: It will be the policy of the Woodbridge Township Police Department to implement, and maintain, a comprehensive in-service training program.

432.1.2

PURPOSE: The purpose of in-service training and education is to keep personnel up to date with new laws, technological improvements, and revisions in agency policy, procedures, rules, and regulations. In-service training serves to motivate experienced officers and furthers the professionalism of the agency.

432.2 ESTABLISHMENT OF IN-SERVICE TRAINING:

432.2.1

ANNUAL TRAINING: In accordance with guidelines issued by the Attorney General of the State of New Jersey, all employees authorized to carry a weapon or make arrests shall receive annual in service training. Training may include periodic refresher courses, specialized skill development training, career development training to include promotional supervisory training, and roll call training. All other personnel may receive in-service training as required by their assignment or position within the organization.

TRAINING COURSES: The Departmental Training Officer is responsible for the completion of the agency training program. Training shall be scheduled by the departmental Training Officer and may be accomplished through several methods. These may include, but are not limited to, scheduled training assignments at courses offered by police training academies; attendance at seminars and lectures offered by private and governmental entities presenting relevant training seminars; scheduled in-house training programs, roll call briefings, video training and computer based training.

It is duly noted that the Woodbridge Police Department training office use NJ Learn. NJ Learn is an online e-learning management system primarily for sworn and certified first responders throughout New Jersey. and the PowerDMS program which provides a central, standardized system for tracking and documenting field training, recruit on boarding and employee performance. The program printout is part of the training records of each of the Woodbridge Police Department police officers involved with the Parks investigation.

My review of the training records of Lt. Edward Barrett, Lt. Joseph Velez, Lt. Michael Ng, D/Sgt. Anthony Penicaro, D/Sgt. Andrew Kondracki, Sgt. Santiago Tapia, Det. Jorge Quesada, Off. Andrew Lyszyk, Off. Francis Lee, & Off. David Mirdala, revealed that each of these Woodbridge Police Department members received a variety of specialized law enforcement related training on numerous topics and each of them had lengthy computer-based training which included arrest, search & seizure.

It is my further professional opinion that the Township of Woodbridge and the Woodbridge Township Police Department have a systematic in-service training program which includes the Attorney General and Middlesex County Prosecutor's Office use of force guidelines and also includes in each session a review of the domestic violence policy, pursuit policy and aerosol agents, as well as arrest, search and seizure.

It is also my professional opinion that each of the Woodbridge Police members involved in this incident were highly and professionally trained in all relevant areas of law enforcement which included legal updates of statutes and case law which affects law enforcement operations.

The New Jersey Police Training Commission Basic Training Course effective January 1, 2015 revised April 2022, provides in relevant part:

FUNCTIONAL AREA 5 - LEGAL REQUIREMENTS OF ARREST, SEARCH, SEIZURE, EVIDENCE, AND USE OF FORCE

UNIT GOAL: The trainee will understand the constitutional principles and legal precedents relating to arrest, search, and seizure. Additionally, policy and law relating to use of force will be covered.

INSTRUCTIONAL UNITS:

1. CONSTITUTIONAL RIGHTS

The unit covers the basic rights of individuals as provided by the United States Constitution and the

New Jersey Constitution, with special emphasis on the federal First, Fourth, Fifth and Sixth Amendments and the corresponding state provisions. The authority of the courts in resolving constitutional issues is described and the purpose of the court-created Exclusionary Rule is explained.

2. PROBABLE CAUSE

The unit discusses the concept and definition of probable cause. It covers the sources for developing probable cause and the considerations that should be identified for establishing probable cause. The trainee will be given practice in determining whether sufficient basis exists for establishing probable cause.

3. LEGAL REQUIREMENTS AND PROCEDURES OF LAWFUL ARREST

The unit covers the legal requirements that must exist before an arrest can be made, the law enforcement officer's authority and jurisdiction to arrest, the requirements and limitations of an arrest with or without a warrant, and the process for obtaining a complaint-summons and a complaint-warrant. The unit presents other arrest authorities, for example, citizen arrest, and the police procedures for persons exempt from arrest. The unit emphasizes the conditions when Miranda warnings are to be given. The unit provides the trainee with practice in determining whether an arrest is lawful and in determining when Miranda warnings are to be given.

4. FIELD INQUIRIES, TERRY STOPS AND TERRY FRISKS

The unit covers the legal requirements necessary for street encounters including inquiries, stops, and detention and covers legal guidelines regarding frisks. The unit also explains the legal limitations to a field stop and pat down.

5. SEARCH WARRANTS

This unit covers the legal requirements that must exist before a search warrant can be issued, the requirements for obtaining a search warrant, and the procedures to follow in the execution of the search warrant. Exceptions to the search warrant requirement are covered including searches incident to arrest, consent searches, plain view, automobile exception and exigent circumstances. Body intrusion searches and telephonic search warrants are also covered in the unit.

6. WARRANTLESS SEARCHES AND SEIZURES

This unit discusses interpreting the Fourth Amendment, and whether or not an officer can search and/or seize evidence without a warrant.

7. FIFTH AMENDMENT AND MIRANDA WARNINGS

This unit discusses when Miranda warnings are required to be given.

8. USE OF FORCE

This unit provides an overview of the statutory requirements regarding use of force. The concept of reasonable force is emphasized in self-defense situations, in defense of others, in law enforcement situations and in defense of premises and personal property. Through the use of simulated

situations, the trainee is provided with the opportunity to evaluate whether the force used was reasonable under the circumstances. The Attorney General's guidelines prohibiting warning shots and describing sanctions a law enforcement officer may incur for the improper use of force are also covered.

9. EYEWITNESS IDENTIFICATION

This unit discusses the procedures which must be followed to conduct a proper show up, photo array, and lineup to ensure that the results are admissible in court. The suspect's rights and the role of counsel during these procedures are outlined. The steps necessary to compel a person not in police custody to appear in a lineup are also identified.

10. RULES OF EVIDENCE

This unit touches upon the basic legal concepts regarding the rules of evidence as they apply to a law enforcement officer's duty. Classification of evidence, types of evidence, witness qualification, testimonial privileges, hearsay evidence and the types of statements or evidence which may or may not be admissible in court are topics introduced in the unit. The importance of demonstrating the chain of evidence is also introduced.

11. ASSET FORFEITURE

This unit discusses the legal issues surrounding asset forfeiture including what can be seized and how to initiate asset forfeiture proceedings. The Attorney General's Forfeiture Guidelines are presented and investigation techniques used to enhance forfeiture proceedings are identified. Through the use of simulated situations trainees will be required to determine whether a forfeiture action against property is appropriate.

INSTRUCTIONAL UNIT 5.2: PROBABLE CAUSE

UNIT GOAL: The trainee will identify the concept of probable cause.

PERFORMANCE OBJECTIVES

1 The trainee will identify the definition of probable cause as it pertains to:

- A. An arrest with a warrant;
- B. An arrest without a warrant;
- C. A search with a warrant; and
- D. A search without a warrant.

2 The trainee will identify sources for developing probable cause.

3 The trainee will identify problems with establishing probable cause through anonymous informants.

FUNCTIONAL AREA 10 - PATROL CONCEPTS

UNIT GOAL: The trainee will possess the skills and knowledge to perform the patrol function safely and effectively.

INSTRUCTIONAL UNITS:

10.2 OBSERVATION AND PERCEPTION

This unit focuses on perception and observation skills. It is designed to help the officer develop basic techniques in observation and perception. It provides a variety of approaches to develop these skills.

INSTRUCTIONAL UNIT 10.2: OBSERVATION AND PERCEPTION

UNIT GOAL: The trainee will understand the relationship between what an individual sees and what the individual perceives. The trainee additionally will know methods by which the trainee's own perception skills may be improved, and will possess the ability to utilize those skills effectively.

PERFORMANCE OBJECTIVES

10.2.1 The trainee will identify factors which affect perception by an individual. These factors will include:

- A. Past individual experiences;
- B. Experiences of other community members;
- C. Mental condition/cognitive ability;
- D. Emotional involvement;
- E. Environmental conditions present;
- F. Cultural influences;
- G. Media coverage of police actions; and
- H. Personal bias.

10.2.2 The trainee will identify at least two (2) means by which skills of observation and perception can be improved.

Instructor's Note: Given simulated situations where the trainee observes a scene and/or an activity for a specific period of time, the trainee will identify the scene or activity with acceptable accuracy.

10.13 TACTICAL CONSIDERATIONS FOR CRIMES-IN-PROGRESS

This unit deals with the principles and procedures of responding to reports of crimes-in-progress. Tactical considerations such as approach routes, use of vehicle, approach techniques and coordination of other units are described. Three types of calls are given special attention:

- A. Robbery;
- B. Burglary; and
- C. Suspicious persons.

PERFORMANCE OBJECTIVES

10.13.1 The trainee will identify the purpose and utilization of different methods when responding to a crime in progress; these methods will include:

- A. Proceed directly to scene as quickly and quietly as possible;
- B. Proceed directly to scene utilizing siren and flashing lights;
- C. Proceed to the location most likely to intercept fleeing suspect(s);
- D. Proceed to scene and coordinate arrival and/ or deployment with other units; and
- E. Proceed to an adjacent location and continue on foot.

10.29 IDENTIFYING FRAUDULENT OR ALTERED DOCUMENTS

This unit describes commonly altered identification documents and methods to identify forged or altered documents

UNIT GOAL: The trainee will be able to identify genuine documents including Passports, New Jersey and International Driver Licenses, Social Security Cards, Visas, Permanent Resident Cards and Resident Alien Cards.

PERFORMANCE OBJECTIVES

- 10.29.1 The trainee will identify two ways passports are counterfeited or altered.
- 10.29.2 The trainee will identify two most commonly altered points on a driver license.
- 10.29.7 The trainee will identify what steps a law enforcement officer should take when encountering fraudulent, altered or expired documents.

FUNCTIONAL AREA 12 — CRIMINAL INVESTIGATION

UNIT GOAL: The trainee will possess the knowledge and skill necessary to satisfactorily accomplish the investigative duties and responsibilities associated with being the first officer to discover or respond to the scene of a crime.

INSTRUCTIONAL UNITS

12.1 PRELIMINARY INVESTIGATION-RESPONSIBILITY OF THE RESPONDING OFFICER

This unit provides the trainee with the information and practice necessary to conduct a preliminary investigation at the scene of a crime.

12.2 IDENTIFICATION OF PHYSICAL EVIDENCE

This unit presents the techniques to use in searching a crime area for physical evidence. Practice is provided for various search methods, and identification of items as evidence.

12.3 EVIDENCE PROCESSING

This unit provides the information and procedures necessary to mark or package and tag items of evidence in a manner that will suffice for identification in court. This unit covers the special treatment, storage and transmission of evidence found at a crime scene, in addition to explaining the

"chain of custody" and the proper completion of agency forms to insure the admissibility of crime scene evidence in a court of law.

Requirements for handling specific materials such as soil, liquids, firearms, minute items, clothing and restricted substances are given.

12.7 LOCATING AND PROCESSING FINGERPRINTS

This unit focuses on fingerprints, and includes a description of the two types, latent and plastic. Practice is given in locating, processing, lifting, and preserving both types of prints in a manner that will ensure admissibility in court.

12.8 DEVELOPING SOURCES OF INFORMATION

This unit focuses on the identification and development of sources of information, including record searches, the availability of information in both private and public records, and the associated legal requirements.

INSTRUCTIONAL UNIT 12.1: PRELIMINARY INVESTIGATION RESPONSIBILITY OF THE RESPONDING OFFICER

UNIT GOAL: The trainee will know the law enforcement officer's duties and responsibilities at the scene of a crime, and will possess the knowledge and skill necessary to perform those duties.

PERFORMANCE OBJECTIVES

12.1.1 The trainee will identify the steps necessary to conduct a preliminary investigation.

12.1.2 The trainee will identify the role and responsibilities of the first officer to arrive at a crime scene. These will include:

- A. Ensure officer safety and the safety of others present;
- B. Ensure medical aid for injured;
- C. Preservation and control of crime scene;
- D. Notification to supervisor;
- E. Identify and secure witnesses and victims; and
- F. Documentation observations.

12.1.3 The trainee will identify three (3) common mistakes which can contaminate a crime scene.

12.1.4 The trainee will identify why it is particularly critical that the responding officer is sensitivity to the emotional state and needs of victims, family members, and witnesses at a crime scene.

12.1.5 The trainee will identify evidence that would logically be classified as "fragile", and will specify the actions necessary to preserve each piece of evidence. This will minimally include:

- A. Biologicals (blood, semen, and other bodily fluids);
- B. DNA (hair, saliva, etc.);
- C. Footprints;
- D. Tire marks; and
- E. Broken Glass.

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INSTRUCTIONAL UNIT 12.2: IDENTIFICATION OF PHYSICAL EVIDENCE

UNIT GOAL: The trainee will be proficient in the identification of physical evidence.

PERFORMANCE OBJECTIVES

- 12.2.1 The trainee will identify what constitutes evidence at a crime scene.
- 12.2.2 The trainee will identify the three different types of evidence.
- 12.2.3 The trainee will identify the different classifications of evidence.
- 12.2.4 The trainee will identify: (A) individual and (B) class evidence.
- 12.2.5 The trainee will define "strip," "spiral," "grid," and "quadrant" methods of searching a crime scene for physical evidence.

INSTRUCTIONAL UNIT 12.3: EVIDENCE PROCESSING

UNIT GOAL: The trainee will possess the knowledge and skill needed to mark and/or tag and preserve items of evidence for identification.

PERFORMANCE OBJECTIVES

- 12.3.1 The trainee will identify various types of evidence at a crime scene. The trainee will identify the steps to mark or package and tag each kind of evidence in a manner which is consistent with proper chain of custody procedures.

INSTRUCTIONAL UNIT 12.7: LOCATING AND PROCESSING FINGERPRINTS

UNIT GOAL: The trainee will possess the knowledge and skill necessary to locate and process fingerprint evidence in a manner that will ensure evidential value.

PERFORMANCE OBJECTIVES

- 12.7.1 The trainee will identify the differences between "latent fingerprints" and "plastic fingerprints."
- 12.7.2 The trainee will identify the use and advantages of the Automated Fingerprinting Identification System (AFIS) as it pertains to criminal investigations.

INSTRUCTIONAL UNIT 12.8: DEVELOPING SOURCES OF INFORMATION

UNIT GOAL: The trainee will possess the ability to recognize effective techniques of identifying and developing sources, informants, and records as means of collecting information.

PERFORMANCE OBJECTIVES

12.8.1 The trainee will identify methods of identifying and developing sources of information.

12.8.2 The trainee will identify types of private records which may be of assistance when collecting investigative information, and will identify the legal requirements regarding use of private records.

12.8.3 The trainee will identify public records which may be of assistance when collecting information.

INSTRUCTIONAL UNIT 12.9: PLANNING AND CONDUCTING AN INTERVIEW

UNIT GOAL: The trainee will recognize the importance of planning interviews and will know how and when to advise a person of his/her Miranda rights in a manner that conforms to the judicial requirements.

PERFORMANCE OBJECTIVES

12.9.1 The trainee will identify the difference between an interview and an interrogation.

12.9.2 The trainee will identify specific factors which can affect the ability of a witness to observe or recall an event.

12.9.3 The trainee will identify the steps a law enforcement officer should take to prepare for an interview.

12.9.4 The trainee will identify the steps for conducting an interview.

INSTRUCTIONAL UNIT 12.10: INVESTIGATIVE REPORTS

UNIT GOAL: The trainee will demonstrate through written submissions how to effectively write investigative reports, use of force reports, search warrant affidavits, search warrants and communications data warrants.

PERFORMANCE OBJECTIVES

12.10.1 The trainee will identify the elements included in investigative reports.

12.10.2 The trainee will identify the elements included in use of force reports.

12.10.3 The trainee will identify the elements included in a search warrant affidavit.

12.10.4 The trainee will identify the elements included in a search warrant.

12.10.5 The trainee will identify the elements included in a communications data warrant.

Instructor's Note: The trainee shall write various reports for editing and subsequent to the editing process, final reports should be prepared and graded. The trainee shall be provided an opportunity to resubmit all work after editing by instructor. The trainee will be graded on a Pass/Fail basis after resubmitting edited work.

Again it is my professional opinion that the Township of Woodbridge and the Woodbridge Township Police Department have a systematic in-service training program which includes the Attorney General and Middlesex County Prosecutor's Office use of force guidelines and also includes in each session a review of the domestic violence policy, pursuit policy and aerosol agents,

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as well as arrest, search and seizure.

It is also my professional opinion that each of the Woodbridge Police members involved in this incident were highly and professionally trained in all relevant areas of law enforcement which included legal updates which includes statutory and/or case law which affects law enforcement operations.

Again it is my professional opinion that each Woodbridge Police Officer involved in this incident was highly and thoroughly trained from their Basic Academy Training, through their specialized training, continual agency training and on a daily field learning experience, in accordance with accepted police practices, New Jersey Law, New Jersey Attorney General guidelines, Woodbridge Township Police Department Rules, Regulations, Policies & Procedures.

Nijeer K. Parks Investigation

In the Woodbridge Police Department Incident Report # 19010123/1 Officer A. Lyszyk reported, " While on patrol, Ptl. Lee and I were dispatched to Hampton Inn (370 Rt. 9 North Woodbridge) on a report of a shoplifting. HQ advised us that the caller stated that the male's vehicle, NY JBD2162 Gray Dodge Challenger, was parked in front of the hotel.

Ptl. Lee arrived on location prior to my arrival and was already speaking to the male, that identified himself as Jamal Owens. The male told us that he was going to pay for the snacks that he took, but left his money in the car. When he went out to his car, he placed the snacks on the seat and came back in with his money. However, when he was coming back into the hotel lobby to pay for the snacks, he felt the need to go to the bathroom. When he came out of the bathroom, he saw Ptl. Lee standing there.

I walked over to the hotel counter and spoke to the two clerks, Caleigh Higgins and Kamisha Grant, and the hotel manager, Richard Charneco. Charneco advised me that one of the cleaning personnel saw the male place a bunch of snacks into his bag and then put it in his vehicle. At that point he called the police. Charneco stated that he wanted the male to pay for the items, 13 assorted candies and 2 Clear eye drops (total value \$39.00), that he took. I told the male that the hotel wanted him to pay for the items and asked him where they were. The male told us that the snacks were in his car. We then walked out to the car, grabbed the snacks from the vehicle, brought them back to the counter, and paid for them. The male also purchased a bottle of water and took a sip out of it when he paid for the snacks. Ptl. Lee advised me that the Tennessee driver's license, DL # 801527486 Jamal Owens 765 Oakdell Ave. Madison TN 37115 DOB 10-15-93, that he gave him was not coming back on file and gave it to me so I can check it in the car.

While in my car, I attempted to find Jamal Owens, but kept on receiving a not on file result. At that time, I compared the license that he gave Ptl. Lee to the Tennessee license on the I.D. checking guide and found multiple discrepancies. The discrepancies that I found were that there were asterisks where numbers were supposed to be and the zip code to his mailing address was 5 digits instead of nine.

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At that time, I contacted the Tennessee State PD at the Knoxville, TN office and spoke with supervisor Jason Beary. I advised him of my situation and asked him if he could check his system to confirm that there was not a glitch between our systems. Supervisor Beary advised me that the DL number and the name Jamal Owens was not on file within their DMV. Supervisor Beary also advised me that the driver's license in Tennessee should start with 0 instead of 8 .

At that point I went back into to the lobby and confronted the male. The male was still holding onto the bag of candy and water bottle. I advised him of the situation and asked him if he had any other forms of identification on him. At first he stated that he did not have his wallet on him, but then took out his wallet from his pocket. He opened up his wallet and showed me a credit card with the name, Jamal Owens. I then asked him if he was staying at the hotel so that I can confirm who he is. He advised me that he was not staying at the hotel and was just there for the Hertz rental car store.

Since he admitted to shoplifting the snacks and I was not able to identify him; I told him to turn around and place his hands behind his back. The male turned around and placed his hands behind his back. When he did that, I was able to see a big bag of suspected marijuana, that was halfway in a black plastic shopping bag, protruding from his left jacket pocket. I grabbed him by the wrist, took the bag out of his pocket, dropped it on the floor, and went to place Ptl. Lee's handcuffs on him. As I was about to place the handcuff on his wrist, the male slipped away from my grip and started to run towards the rear of the lobby.

We called out the foot pursuit and began to chase him towards the rear of the lobby. His right sneaker fell off prior to exiting the rear door, which is next to the Hertz car rental kiosk. He exited the rear door and ran towards the rear gate, which was closed. He pushed open the gate, made a right turn, ran towards Dunkin Donuts, and began to run back towards the front of the hotel. While he was running, he kept placing his right hand into his jacket pocket and kept looking back at us. He ran back towards the front of the building and jumped into the driver's seat of the vehicle, NY JBD2162. We caught up to him at the vehicle, pointed our weapons at him and ordered him to shut the car off. However, the male placed the vehicle in reverse and backed the vehicle up a few feet and stopped. Once stopped he told us not to shoot him and moved his left hand towards the side of his seat. I told him to keep his hands where I could see them or I was going to shoot him. I then told him to unlock his door, but he refused and said that he will unlock the door only if we put our guns away. We told him that our guns were staying out and ordered him to open the door. However, he refused again and began to hit the steering wheel with his fists while sitting in the driver's seat unbuckled. After some time, the male placed the car in drive, hit the gas, turned the steering wheel to the left, struck the rear driver's side of patrol car #3, and then hit the pillar at the Hampton Inn. When he did that, the male turned the vehicle towards Ptl. Lee and Ptl. Lee had to move out of the way to avoid serious injury. After hitting the pillar, the male put the vehicle in reverse, I moved out of the way, and the male backed the vehicle up. The male then sped off towards Miller's Ale House, made a left towards Rt. 9 north, drove the wrong way on the ramp (ramp from Rt. 9 North to Millers Ale House), and made a right onto Rt. 9 north. Once on Rt. 9, the vehicle sped off at a high rate of speed.

We hoped in our vehicles and attempted to follow him. At this time multiple units were on Rt. 9

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north, but we were unable to locate the vehicle or the suspect. Therefore, I went back to Hampton Inn to preserve the scene. As I returned to the scene, Charneco advised me that he collected the items that were dropped on the floor, placed it in a bag, and moved it to the side. Charneco then gave me the bag and I secured the items in my patrol car. I then notified HQ that I needed additional units on scene to help preserve the scene. I also asked HQ to notify the detective bureau about the incident and to notify them that we need the scene processed. Ptl. Campagnio arrived on scene and preserved the rear gate, Ptl. Lee arrived on scene and preserved the rear door, Ptl. Montalvo arrived and preserved the front entrance where the motor vehicle crash occurred, and Det. Tapia and Det. Quesada arrived on scene to process it, see additional reports.

I then went to the Hertz kiosk to talk to the employee that was dealing with the male. However, there was no one there so I went to the hotel desk. I asked the hotel clerks if they knew where the Hertz employee was. Higgins advised me that the employee came over to her and said " ah shit that was one of my cars". The employee then handed Higgins a key to another vehicle and told her that a customer is going to pick up a vehicle. After giving her the key the Hertz employee told her " I just got to step outside and figure it out". After the employee went outside, she did not see him again. None of the hotel personnel know who the Hertz employee is. I attempted to get a hold of a manager, but had negative results. Charneco also advised me that there is CCTV on site, but he would not be able to access it until Monday.

Prior to leaving the scene, I notified Det. Quesada that the male left his right shoe and water bottle behind. I also advised him that I still had the fake driver's license that the male gave me in my possession. The following items were inside the black bag, which came out of the male's left jacket pocket, suspected marijuana, a crumpled Dunkin Donuts receipt, four packs of Backwood cigars, a Sprint sim card, and a marijuana grinder. The other bag that the male dropped contained 13 assorted candies and two Clear eyes eye drops that he purchased.

I transported the items to HQ without incident. I placed the suspected marijuana on a scale to weigh it. The total weight of the suspected marijuana was 44 grams. The information on the Tennessee driver's license did not match any Tennessee driver's license on file. However, the image on the driver's license was the suspect. The suspected marijuana, grinder, Sprint sim card, four packs of Backwoods cigars, fake license, and the Dunkin Donuts receipt was placed into evidence locker. The candies and eye drops were also placed into the evidence locker for safe keeping. Det. Quesada came downstairs and took custody of the Air Jordan sneaker and bottle of water so that he can attempt to extract DNA from them. The detective bureau took over the investigation."

Officer Lyszyk testified in his deposition on page 13, line 12, "A. I know that that license did not come back on file. So I know I took the license and went to my patrol car with the license. Plus, I have a book that identifies government licenses. It's a book that has every single license from every state. So you compare it to see what's fake, what's not. It appeared to be fake because it was missing certain things. I believe asterisks and zip code. Once I confirmed it was fake and I called Tennessee state police. Confirmed it was fictitious"

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It is my professional opinion that Officer Lyszyk in his exemplary performance, responded to the shoplifting call, made his observations, recovered suspected marijuana, and went to his patrol vehicle and looked into his personal book that identifies government licenses, telephoned the Tennessee State Police and confirmed the license was fictitious, called for more Woodbridge Officers to preserve the scene, continue the investigation and secured the evidence, in accordance with accepted New Jersey Police Practices & Procedures, and his overall training knowledge and experience enumerated above.

In the Woodbridge Police Department Incident Report # 19010123/2 Officer F. Lee #591 reported, "On January 26, 2019, I was dispatched to the Hampton Inn on Rt. 9N to assist Car 3 on a shoplifting. CAD notes showed that the suspect vehicle, a Dodge Challenger NY Reg#JBD2162, was in the lot and that a black male had taken some items from the gift shop, then went to the vehicle and was now in the bathroom. The vehicle had come back as a gray 2018 Dodge Challenger registered to Hertz. It should be noted that the hotel does have a Hertz rental desk in the main lobby.

Upon arrival to the hotel, I was met by the reporting person, Richard Charneco, who advised that the suspect was still in the rest room. There had not been any clothing description given while I was en route to the hotel, so he advised that the suspect was about 5'10 - 5'11 wearing a black jacket. After several minutes the suspect came out of the bathroom and I asked about the snacks/candy he was being suspected of taking. He apologized and said he will pay for the items. I then asked him for his ID and he handed me a Tennessee driver's license with DL#801527486 and with a name of Jamal Owens. I then had dispatch run the DL. Dispatch came back stating that the DL did not come back on file. At about that time Officer Lyszyk arrived on scene. I advised Officer Lyszyk about the incident and about the driver's license not coming back on file. While we were talking with the suspect he did pay for the items and apologized. Officer Lyszyk then went to his vehicle to further investigate the DL (See Officer Lyszyk's report). I was watching the suspect and he was pacing around, then bought a bottle of water from the hotel and drank it quick. He then threw it away in one of the hotel garbage can. He then continued to pace and got another bottle of water, this time from the Hertz rental car employee. Then I had him sit down on one of the sofas in the lobby. Officer Lyszyk then came back in and had the suspect turn around and that was when Officer Lyszyk observed a big bag of suspected Marijuana in the left pocket of the suspects jacket. As he was handcuffing the suspect, the suspect darted across the lobby, lost a sneaker, then went out the back door. We then began to chase the suspect calling out a foot pursuit over the air. We had also commanded for the suspect to stop but he kept running. The suspect ran around the hotel back to his vehicle that was in front of the hotel. He was able to get in and back the vehicle slightly. He stopped as we drew our service weapons. Officer Lyszyk was by the front passenger window, while I was next to the front driver side window. We gave him commands to stop moving and to shut the vehicle off. We had also radioed for additional units. The suspect was not complying with our commands and the suspect vehicle drove directly towards me, as a result, I had to jump out of the way to avoid serious bodily injury. The vehicle did strike Car 3's rear bumper and a column that was part of the hotel. The vehicle sustained major driver side front end damage. Despite this, the suspect was able to drive the vehicle onto Rt.9N in an extremely high rate of speed. By the time I got into my vehicle and got onto Rt. 9N, I no longer had visual of the vehicle. A description of the suspect along with

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the description of the vehicle was radioed to dispatch along with direction of travel. Multiple units were dispatched checking the area. I drove up Rt. 9N to Rt. 1 N up to the Rahway border and did not see the vehicle. I then turned around to go back to the hotel. The suspect vehicle was found later by Sgt. Flavell parked in a parking lot off of Mattison St. just off the Main St. exit of Rt. 9N (See incident#19010148). Investigation was turned over to the Detective Bureau.”

Officer Lee testified in his deposition testimony, on page 18, line 17, " Now, your report said that you estimated that the suspect was about 5' 11", right? A. Yes. Q. And how did you make that estimation? A. See, I'm 5' 6", so the suspect was taller than I am. Q. Okay. And you were face to face with the suspect, right? A. Yes. Q. So you were able to suss him out by being next to him; is that fair to say? A. Yes. I was able to kind of see how tall he was.

In the Woodbridge Police Department Incident Report # 19010123/4 Detective S. Tapia #481 reported, “ On Saturday, January 26, 2019, Woodbridge Police Officers Lyszyk and Lee were dispatched to the Hampton Inn Hotel on a report of a man shoplifting snacks from the lobby. Officers responded and the suspect identified himself as Jamal Owens and produced a fraudulent Tennessee driver's license # 801527486. Officer Lyszyk contacted the Tennessee State Police and they confirmed that the Tennessee driver's license was fraudulent. Officers Lyszyk and Lee attempted to place the suspect under arrest and the suspect resisted arrest. The suspect ran into a 2018 Dodge Challenger bearing New York registration JBD2162. The suspect disobeyed several verbal commands to shut off and exit the vehicle. The suspect drove at Officer Lee, rammed the rear of the police car and crashed into part of the building. Officer Lee had to jump out of the way to avoid serious injury. Patrol Officers pursued the vehicle for a short distance and lost sight of it. I requested video footage from the Hampton Inn Hotel manager, Richard Charneco and the video was later turned over to the Woodbridge Police for evidence. Woodbridge Police I.D. Detective Quesada responded to the Hampton Inn Hotel and processed the scene. The suspect's sneaker, the fraudulent Tennessee driver's license, and a water bottle that the suspect drank out of were brought back to Woodbridge headquarters for further processing. The vehicle was located by Sgt. Flavell unoccupied on Mattison St. Woodbridge which is approximately 1 mile away from the Hampton Inn. Sgt. Flavell towed the vehicle to our impound yard for further processing upon my request. I contacted Hertz corporate security manager, Matthew Knowles and I learned that the suspect went in to the Hertz rental located within the Hampton inn hotel on rt.9 North in Woodbridge with the intent of extending his rental agreement on a 2018 grey Challenger bearing New York registration JBD2162. He presented the fraudulent Tennessee Driver's License with the name Jamal Owens. Matthew Knowles gave me verbal and written consent to search the vehicle. Inside the vehicle, I found the rental agreement for the Dodge Challenger with the name Jamal Owens. Detective Quesada processed the inside of the vehicle for fingerprints and several prints were lifted.

I verified with Officer Lee and Officer Lyszyk that the picture on the fraudulent Tennessee driver's license was the picture of the suspect. They both stated that they were 100% sure it was the suspect's picture. I sent out the suspect's Tennessee driver's license picture to the Regional Operations Intelligence Center (ROIC) and the New York State Intelligence Center (NYSIC) for facial recognition.

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It is appropriately noted that the NJ ROIC form that Det. S. Tapia submitted clearly states that a possible match should only be considered an investigative lead and no probable cause to make an arrest. INVESTIGATIVE LEAD, NOT PROBABLY CAUSE TO MAKE AN ARREST. The NYRCIC reported utilizing facial recognition software and received a possible HIT on a subject NIJEER K. PARKS, 09/11/1987 (NJ).

It is also appropriately noted on the New York State Intelligence Center Request for Information Form submitted by Det. Tapia, he reported, "The picture on the D.L. is of the suspect but the other identifiers are false."

On January 27, 2019, I received notification from Investigator Seamus Lyons (Rockland County Sheriff's Intelligence Center) and Sgt. Dey (Palisades Interstate Parkway Police) that they had a high profile comparison to the picture on the fraudulent Tennessee driver's license. The suspect was identified as Nijeer Parks with a date of birth of September 11, 1987 with a last known address of 485 E. 19th St. Apt # 3G Paterson, NJ. I compared the photo on the fraudulent Tennessee driver's license to Nijeer Parks' assigned New Jersey driver's license # P06195927209872 and it is the same person. Inv. Seamus Lyons emailed me the Identification Report for evidence.

On February 1, 2019, I went to Hertz and I took a taped statement of the manager, Michael Dones who tended to the suspect. During his interview; he explained the identification procedures when renting a vehicle. Furthermore, Mr. Dones stated that he verified the picture on the Tennessee driver's license to the customer's face and it was the same person. Mr. Dones provided me with a copy of the rental agreements which were placed into evidence.

I contacted Middlesex County A.P. Nastasi and presented him with the facts of the case and he authorized a warrant. I generated warrant # 2019000156 against Nijeer Parks charging him with aggravated assault on police, possession of a weapon and possession of a weapon for unlawful purpose. The Honorable Municipal Court Judge Stahl read the affidavit of probable cause and signed the warrant. Officer Lyszyk generated warrant # 2019000158. (See officer Lyszyk's warrant for the list of charges)

After signing the complaints, Officer Lyszyk, Det. Goins, and I drove to Patterson and checked several addresses looking for Nijeer Parks but were unsuccessful. All of the evidence collected during this investigation is secured in the Woodbridge Police Evidence Bureau.

On February 2, 2019, I faxed the warrants to Patterson P.D. for service. This investigation is concluded pending court."

Sergeant Santiago Tapia testified in his deposition in relevant part on page 45 line 6, "Q. Sergeant, when did you become aware of facial recognition technology? A. While I was working on with the Auto Theft Task Force. Q. And tell us how you became aware of it with the task force. A. There was members on the tasks force that used it successfully. Q. And how was it used at the auto -- this is the auto task force of the -- A. New Jersey State Police. Q. And that was out of Irvington? A. Yes, sir.

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Q. And how was it used there? A. To identify people involved in auto theft, whether it was the low-level thieves or the higher-ups in the trade. Q. Do you remember particular individuals who used it at the task force? A. It was Sergeant Pyrzanowski. He's a lieutenant with the Department of Criminal Justice. Q. Do you know what software Sergeant Pyrzanowski used? A. No. He didn't run it. He sent out for it. Q. Do you know where he sent it to? A. The Regional Operation Intelligence Center, the ROIC. Q. What do you know about the ROIC? A. They assist law enforcement agencies in several -- they have several tools that they use that we don't have the access to. Q. When did you first encounter the R-O-I-C? A. As a detective. I don't recall the first time I ever encountered them or used them for anything.

And on page 50 line 22, “Q. Would it be fair to say that at the task force facial recognition technology was used as an investigative tool? A. Yes.”

And on page 53, line 12, “Q. Were you aware that the AG barred the use of facial recognition technology in 2020 because of this -- racially biased? A. It was actually one software that he banned, which was called Clearview.”

It is duly noted that on January 24, 2020, a year after the Parks arrest, New Jersey Attorney General Gurbir S. Grewal, told state prosecutors in all 21 counties that police officers should stop using the Clearview AI app. Nowhere in his ban did the Attorney General refer to “racially biased”.

It is my professional opinion that Sgt. S. Tapia appropriately and properly used his on the job training knowledge to send the fraudulent Tennessee drivers license to the New Jersey Regional Operations Center (ROIC) and the New York State Intelligence Center (NYSIC) Rockland County Sheriff's Intelligence Center (RCSIC) for Facial Recognition Technology (FRT) comparison as a tool to identify the Hampton Inn suspect, in accordance with accepted New Jersey police practices, procedures, training standards, New Jersey Attorney General Guidelines, the New Jersey Police Training Commission Performance Objectives, the Woodbridge Township Police Department Training and New Jersey Criminal Law.

Detective Jorge Quesada testified in his deposition testimony, in relevant part on August 16, 2022, Page 8, line 16 “Q. What's an ID detective? A. We process leads. If somebody breaks into a home we go photograph. We look for evidence, collect evidence, and submit the evidence. Q. when did you become an ID detective? A. The end of 2018. Q. So fair to say in January 2019 you had only been an ID detective for a couple months? A. Yes, sir. And on page 9, line 8 “Q. When you came on the job what kind of training did you get? A. The police academy training. Six months' worth of police academy. Then we do yearly in-service training. And early on in the career I tried to go to any additional classes that were available. Our department would pay for the classes and we can go on off time or work days. Q. Which academy did you go to? A. Somerset County Police Academy. Q. When you became a detective was there any special training? A. They start sending you to different detective schools for interviews, various schoolings for that and classes, basically. And I used to go on my own to different classes. And on page 18, line 3, Q. do you recall going to a scene on January 26, 2019, at the Hampton Inn? A. Yes.

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On page 19, line 12, Q. Okay. So what did they ask you to do initially? A. It's what I asked them. I asked them, you know, which way the person ran. They told me that there was a sneaker in the parking lot. They told me that he was carrying a bag that he had left behind. And he was drinking the water bottle that he actually placed in the garbage can during the interaction. I believe they had a lengthy interaction with the person at that time. I start processing the scene. I start with overall photos of the scene. I photographed where the bag was, contents of the bag. I photographed where the garbage can was and where I recovered the water bottle that was in the garbage can. And then they showed me the direction which way he ran. He ran out through a back door which was a common door that everybody in the hotel uses. And then he went down the sidewalk, went through a gated area, made the right. And I believe that's where the sneaker was in the back parking lot. And he ran around the building. And then that's when he jumped in the car. And there was damage to the hotel, damage to the police car I believe. So I photographed all that. Once my photographs were completed I started checking for fingerprints. And on page 22, line 7, Q. Okay. What do you recall about lifting prints? A. The common doorway that he exited through is a common doorway. So I basically just dusted the whole door to see if I would see anything. Once I dusted the door I was able to see some of the prints. Those prints were lifted and photographed. Once I was done with the glass door I went out -- outside with the metal gate. And I also processed the metal gate, but I wasn't able to find any fingerprints on the metal gate. Once the vehicle was located I went and processed the vehicle once consent was granted. On page 25, line 9, Q. And how often -- what's the normal routine for -- or timeframe for submitting prints after they've been obtained? A. Once we have a couple jobs that are -- we have a little folder we keep the file -- the packages that go down to the state police. Once when have a couple of them ready to go down our -- one of our retired guys is the one that transports them to the state police. It probably happens within a week to two weeks of coming in. Q. What's the normal turnaround after you submit the prints to Holmdel? A. I would say maybe four to six weeks we get them returned. And that's either with a comparison or with nothing. That they've been placed into the system and then they'll be randomly ran through the system to see if anything new comes in to compare them to. And on page 28, line 7, Q. Did you do anything with the other evidence? A. It was packaged and sent out to state police for DNA comparison. Once I get the item, the water bottle and the sneaker, I got to package it a certain way. I turn it over to our evidence department. And then once they have a couple of cases that got to go down, they have to be taken down to Sea Girt by a police officer. And then it gets dropped off there. And then once the state police is done with their processing of it, we actually have to go back with another police officer and the evidence guy to come pick up the items to be put back in our evidence department.

On page 31, line 21. Q. Have you ever -- have you had any training with facial recognition technology? A. No, sir. Q. Do you know anything about facial recognition technology? A. It was a tool that could have been used. I believe you can go through the ROIC with state police, but I've never dealt with it, never done it. From just reading case law and people at a class say, hey, have you seen facial recognition technology before; you know, this is what we did, but no formal teaching of it from anybody. Q. So you were aware that the facial recognition technology was the basis for signing the complaint? A. No, sir. No. I was walking down the hallway and Tapia said, hey, we got a hit on this guy. Yes. We might have a possible lead on the person. And on page 36, line 10, Q.

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What does it mean by the -- right above the narrative it says, "Identification made by Detective Cioni", and same thing for Velez? A. So once the state police has the fingerprint and they have a hit in their system, the fingerprint gets sent back to us. Once we have that fingerprint, if it's somebody of interest it has to be identified and compared by two individuals from our department. So when the state police says, hey, this has so many points that are identifiable, we have to locate those same points. And then a secondary person has to confirm those identifiers to be able to say, yes, this is the fingerprint belonging to such and such person. Q. The narrative says, "The details make, quote, the latent an exact match to the left palm impression of Barrington Walker." End quote. Fair to say that's a very strong result? A. Yeah, it has to be a hundred percent that person. Once the state police has their identification, we have to back it up and verify it. A. This was done later on. Once the fingerprint was lifted off the door, once it was received back to our department, I send it over to Detective Tapia.

Det. Quesada continued to testify that he appropriately tagged, marked and submitted the evidence found and collected to the New Jersey State Police Laboratory.

It is my professional opinion that the Woodbridge Township Police Department utilized their officers, Lee, Lyszyk, Tapia and Quesada with their appropriate expertise, experience and training to respond to the Hampton Inn shoplifting complaint on January 26, 2019 and as the process continued turned the investigation over to the detectives and crime scene personnel for continued investigation, evidence collection and documentation and submission, in accordance with accepted police practices, New Jersey Law, New Jersey Attorney General guidelines, Woodbridge Township Police Department Rules, Regulations, Policies & Procedures.

It is my further professional opinion that the Woodbridge Township Police Department continued to verify the leads generated and received as testified by Det. Quesada in accordance with accepted police practices, New Jersey Law, New Jersey Attorney General guidelines, Woodbridge Township Police Department Rules, Regulations, Policies & Procedures.

Nijeer K. Parks testified in his deposition, in relevant part that he was arrested numerous times and in prison two times, in New Jersey and that his DNA is in the system.

It is my knowledge and professional opinion that when an individual is arrested in New Jersey, the individual during processing is photographed and fingerprinted and that those photographs and fingerprints (mugshot & prints) are then on file in the New Jersey State Police, Bureau of Identification.

New Jersey State Police (NJSP) Practical Guide to Intelligence-led Policing

On September 26, 2006 The New Jersey State Police (NJSP) Practical Guide to Intelligence-led Policing details the processes that the NJSP has adopted in order to operationalize the principles of Intelligence-led Policing (ILP). It was written to ensure that all members of the NJSP share the same understanding of the concepts and vernacular that we have embraced to institutionalize intelligence

as the foundation of all operations. The need for this guide was born from the understanding that before any law enforcement organization can benefit from the use of intelligence its members must truly understand the fundamental concepts linked to the application of intelligence and ILP. In essence, this guide is a reference for the trooper on patrol, our analysts, detectives in the field, and the NJSP's senior leadership. It acknowledges that the NJSP's primary responsibility as a state policing organization is to prevent and disrupt crime and terrorism and that they will do so by leveraging an intelligence apparatus that communicates clearly, shares information, and focuses resources.

The New Jersey Regional Operations and Intelligence Center (ROIC). As New Jersey's fusion center, the ROIC's intended benefits are to increase situational awareness of what is taking place in the operational environment, to provide a tactical intelligence analysis of how to best prevent or respond to changes in this environment, and to better manage asset allocation. Taken together, these ROIC's activities will enable the NJSP to maximize the utility of their resources, streamline operations, and improve their collective ability to fight crime and terrorism. With New Jersey's focus on an "all crimes - all hazards - all threats - all the time" preparedness strategy, it is imperative that the ROIC's analytical capacity be aligned with the NJSP's intelligence cycle in order to promote ongoing tactical situational awareness by the NJSP and relevant partners. This integration will evolve over time, and should be fostered by close interaction among the ROIC and the Investigations Branch's operational and strategic analysts. A central role is played by the ROIC's Watch Operations function, whereby NJSP personnel provide near-real-time situational awareness and coordinate with state and federal agencies to track issues of concern. Of equal importance is the performance of the analysts who, daily, are responsible for "connecting the dots" and producing finished intelligence products required for influencing decision-makers. Each function is carried out on a continual basis, though they are of course greatly energized and consume much greater attention during various crisis operations. At the same time, the ROIC must remain engaged in the management of emergency response assets.

The NJSP Biometric Identification Unit:

The Biometric Identification Unit (BIU), formerly called the Automated Fingerprint Identification Unit, classifies, searches, stores and verifies all criminal and noncriminal fingerprint, palm print, and mug photo record submissions. The master fingerprint file contains more than 6,800,000 fingerprints and nearly 674,000 palm prints.

The NJSP Facial Recognition Initiative since its inception in 2015, is administered by the ROIC and its Request for Facial Recognition/Photo Array clearly states, "If the NJ ROIC Facial Recognition Initiative produces a possible match, this should only be considered an investigative lead. Further investigation is needed to confirm a possible match through other investigative corroborated information and/or evidence. **INVESTIGATIVE LEAD, NOT PROBABLY CAUSE TO MAKE AN ARREST.**

It is duly noted that each Woodbridge Township police officer who testified in this Parks matter stated that the facial recognition technology is **only** a tool.

The Security Industry What Science Really Says About Facial Recognition Accuracy and Bias Concerns on July 23, 2022 provides in relevant part: “ **For the past 20 years, the National Institute of Standards and Technology (NIST) Facial Recognition Vendor Test (FRVT) program has been the world's most respected evaluator of facial recognition algorithms** (emphasis added)—examining technologies voluntarily provided by developers for independent testing and publication of results. But even NIST's most significant work has been continually misrepresented in policy debates.

In 2019, NIST published its first comprehensive report on the performance of facial recognition algorithms specifically across race, gender and other demographic groups. Importantly, the report found that the leading top-tier facial recognition technologies had "undetectable" differences in accuracy across racial groups, after rigorous tests against millions of images. Many of the same suppliers are also relied upon for the most well-known U.S. government applications, including the FBI Criminal Justice Information Services Division and U.S. Customs and Border Protection's (CBP's) Traveler Verification Service

NIST's FRVT Ongoing series releases up-to-date analysis on a monthly basis, which surprisingly contradicts the 2019 demographic report. In fact, accuracy among subdemographics is very closely balanced, and if anything, the white male subdemographic shows the lowest accuracy, not the highest.

According to data from the most recent evaluation from June 28, 2022 for the top 20 algorithms, accuracy of the highest performing demographic versus the lowest varies only between 99.7% and 99.8%. Unexpectedly, white male is the lowest performing of the four demographic groups for the top 20 algorithms. For 17 of these algorithms, **accuracy for white female, black male and black female are nearly identical at 99.8%, while they are least accurate for the white male demographic at 99.7%.** (Emphasis added).

Furthermore, FRVT Ongoing uses mugshot data from US law enforcement records, which has firmly established ground truth (accurately labeled data), in contrast to the 2019 demographic report's reliance on foreign governments to supply visa application data, which can be unreliable. In other words, the NIST FRVT Ongoing's finding an absence of demographic bias is both more up to date and based on more accurate data than the 2019 demographic report.

NIST research has documented massive improvements in overall accuracy in recent years, noting even in 2018 the software tested was at least 20 times more accurate than it was in 2014, and in 2019 finding "close to perfect" performance by high-performing algorithms with "miss rates" against a database of 12 million images averaging 0.1%. On this measurement, the accuracy of facial recognition is reaching that of automated fingerprint comparison, which is generally viewed as the gold standard for identification.

While no method of scientifically testing the accuracy of facial recognition algorithms is without limitations, so far the science shows that to the extent accuracy might vary across demographic

groups (i.e., "bias"), the highest-performing algorithms do not have such an issue. At the same time, it is also clear that much more thorough, frequent scientific research, testing and evaluation of facial recognition technologies is necessary to both validate accuracy gains and provide tools to developers to ensure performance is consistent.

Middlesex County Prosecutor's Office Liaison Program

Woodbridge Township Police Director Robert Hubner stated in his

answers to Interrogatories:. The Middlesex County Prosecutor's Office (MCPO) is the lead law enforcement agency in Middlesex County. MCPO assigns an Assistant Prosecutor to serve as a liaison to the Woodbridge Police Department. The MCPO liaison to Woodbridge is Assistant Prosecutor Peter Nastasi. When an officer files a complaint alleging an indictable offense, the Department will contact MCPO to discuss the factual allegations and obtain a legal opinion as to the proper charges to be brought against the suspect.

Sergeant Tapia, testified in his deposition on page 114, line 23 that he briefed Assistant Prosecutor Peter Nastasi of his probable cause and received Nastasi's approval to sign a complaint against Nijeer Parks with Municipal Judge David Stahl, which was done on January 30, 2019.

Officer Lyszyk testified in his deposition and reported that he spoke with Assistant Prosecutor Peter Nastasi, who approved his complaint and the complaint warrant against Nijeer Parks with Municipal Judge David Stahl, which was done on January 30, 2019.

The Middlesex County Prosecutor's Office website provides in relevant part "The Middlesex County Prosecutor has an obligation to investigate crimes, authorize arrests, and is responsible for obtaining indictments and prosecuting criminal cases through trial. The Prosecutor has a duty to uphold the United States and New Jersey Constitutions in order to protect and preserve the rights of all citizens, including suspects, defendants, victims and witnesses. In addition, the Prosecutor works in partnership with other local, state and federal law enforcement agencies; as well as the citizens and members of the county's diverse communities.

The Middlesex County Prosecutor's Office is currently staffed with over two hundred members including Assistant Prosecutors, Detectives, Agents, and Support Personnel. As the chief law enforcement officer for the county, the Prosecutor also has authority over approximately 1900 sworn law enforcement officers from 29 law enforcement agencies in 25 municipalities."

It is my professional opinion that Sgt. Tapia and Officer Lyszyk, appropriately, professionally and properly conferred with Middlesex County Assistant Prosecutor Peter Nastasi, the Woodbridge Police Department liaison and after his review and counsel appeared before Municipal Judge David Stahl, on January 30, 2019 and signed the Nijeer Parks complaint warrants, in accordance with the

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Middlesex County Prosecutor's Office directive and the Woodbridge Police Department Directive Policy and Procedures.

Nijeer K. Parks Arrest

Det. Sgt. Kondracki reported in his Incident #19010123/6 on February 5, 2019 after the arrest of Nijeer Parks, he mirandized Nijeer Parks, who signed the Miranda card and conducted an interview of Nijeer Parks, in accordance with accepted police practices, New Jersey Law, New Jersey Attorney General guidelines, Woodbridge Township Police Department Rules, Regulations, Policies & Procedures.

Officer Francis Lee, testified in his deposition on August 12, 2022 on page 29, line 20, "I told them that was the individual."

Officer Lee also reported, On February 5, 2019, I was contacted by Lt. Ng, who advised me that they currently had an individual, Nijeer Parks, who was involved in the incident on January 26, 2019. I arrived at HQ and was brought down to the processing area with Lt. Ng and Det. Sgt. Penicaro. Once there, I observed Mr. Parks sitting on the rail and identified him as being the suspect from the January 26, 2019 incident at the Hampton Inn on Rt. 9N.

It is my professional opinion that Officer Lee positively identified Nijeer Parks as the individual he had interactions with at the Hampton Inn on January 29, 2019.

Officer Andrew Lyszk, testified in his deposition on August 16, 2022 on page 25, line 7, "I think with the totality of the circumstances of the results from the facial recognition we confirmed that it looked like the suspect that was dealt with at the Hampton Inn. Was that it was a good tool to assist. Assist. And on page 61, line 6, "We received a facial recognition hit. I also confirmed that -- I confirmed that the person in the facial recognition hit was the person that was at the hotel, that looked like the person that was at the hotel."

In Defendant Andrew Lyszyk's Certified Answers to Plaintiff Nijeer Parks's First Set of Interrogatories, Officer Lyszyk certified, "I relied upon my personal observations to identify the suspect after directly interacting with him for over twenty minutes. My observations and recognition of the suspect was corroborated by Officer Lee, who was on scene with the suspect and myself, and directly interacted with the suspect for over twenty minutes."

It is my professional opinion that Officer Lyszk positively identified Nijeer Parks as the individual he had interactions with at the Hampton Inn on January 29, 2019.

Sgt. Santiago Tapia, while testifying in his deposition on August 12, 2022 concerning Officer Lyszk's identification of Nijeer Parks, testified on page 96, line 2, "Officer Lyszk identified him as Nijeer Parks. And on page 97, line 7, "Because we had the DMV information with his picture". And on line 10," But he (Lyszk) identified him as being the person he dealt with at the Hampton

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Inn.” And on line 18, “The identification came from Lyszk.” And on Line 24, Officer Lyszk was the first one to see it. He identified Nijeer Parks 100 percent as the person he dealt with. And on page 100, line 6, in answer to the Q. What are the other bases? “ Positive identification with the officer that dealt with the person, Officer Lyszk”. And on line 16, in answer to the Q. What do you base that assertion on? ”It's an identification.”

It is also my professional opinion that Det. Tapia utilized facial recognition as a tool to identify Nijeer Parks, and along with the identifications of Officers Lee and Lyszk, had developed enough probable cause, confirmed by Assistant Prosecutor Nastasi, to sign the complaint warrant.

Review of the Cilento Report

My review of the Cilento report does not in any way change my professional opinions rendered in this report, in fact it substantiates my professional opinions that the Township of Woodbridge, the Woodbridge Township Police Department and its members, including Police Director Hubner and Police Officers, Lt. E. Barrett, Lt. J. Velez, Lt. M. Ng, D/Sgt. Anthony Penicaro, D/Sgt. Andrew Kondracki, Sgt. Santiago Tapia, Det. Jorge Quesada, Off. Andrew Lyszyk, Off. Francis Lee, & Off. David Mirdala, involved with this incident of January 26, 2019, acted in a professional manner, in accordance with accepted New Jersey Training Standards, accepted New Jersey Police Practices and Procedures, New Jersey Attorney General Guidelines, Woodbridge Township Police Department Rules, Regulations and Procedures, and New Jersey Law.

It is my professional opinion that the Cilento report is fraught with his own slanted opinions and innuendo's with statements like on page 5, “However, “[officers] should not use their firearm to shoot at or from a moving vehicle unless deadly physical force is being used against them other than the vehicle.” using the NYPD Patrol Guide Use of Force standard, which is not the same as the State of New Jersey or Woodbridge Use of Force standards.

And on page 7, On January 26, 2019, Det. Tapia verified that the photo on the Tennessee driver's license was the person with whom POs Lyszyk and Lee engaged in the hotel lobby by showing each one of them the license separately. This was an appropriate, but unnecessary, investigative step because the suspect had previously given the license to these officers, who had turned it over to Det. Tapia. Therefore, there was no need for him to show them the license again, to which I disagree, it was appropriate and part of Det. Tapia's continuing investigation.

And on page 9, The act of showing PO Lyszyk the single photo of Nijeer Parks from the facial recognition hit was a confirmatory identification procedure. It is well known, and considered a best practice, to only utilize single-photo confirmatory identifications when there is a prior relationship between the parties and/or a close temporal proximity to the incident. Neither factor was present in this case, rendering this identification procedure improper, highly suggestive, and likely inadmissible. Further, as it pertains specifically to the identification procedure, it is of no legal significance that PO Lyszyk is a police officer, and under these facts should have been treated like any other witness. And in my professional opinion not taking into account that PO Lyszyk is a

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properly trained N.J. police officer in accordance with the New Jersey Police Training Commission Performance Objectives which includes eye witness observation.

It is because of these types of slanted statements and innuendo's that my review of the Cilento report does not in any way change my professional opinions rendered in this report, in fact it substantiates my professional opinions that the Township of Woodbridge, the Woodbridge Township Police Department and its members, including Police Director Hubner and Police Officers, Lt. E. Barrett, Lt. J. Velez, Lt. M. Ng, D/Sgt. Anthony Penicaro, D/Sgt. Andrew Kondracki, Sgt. Santiago Tapia, Det. Jorge Quesada, Off. Andrew Lyszyk, Off. Francis Lee, & Off. David Mirdala, involved with this incident of January 26, 2019, acted in a professional manner, in accordance with accepted New Jersey Training Standards, accepted New Jersey Police Practices and Procedures, New Jersey Attorney General Guidelines, Woodbridge Township Police Department Rules, Regulations and Procedures, and New Jersey Law.

Internal Affairs Report

On December 29, 2021, Lt. Joseph Velez sent IA Report 2021-501 report to: To: Chief Law Enforcement Officer Captain Scott Kuzma

On December 28, 2020, Woodbridge Township Police Director Robert Hubner received a Summons notifying him that a Lawsuit had been filed against the township and police department. Nijeer Parks filed the lawsuit because of his arrest by Woodbridge Police Officers on February 5, 2019.

Incident Summary:

On January 26, 2019, Officers Andrew Lyszyk #519 and Officer Francis Lee #591 were dispatched to the Hampton Inn on Route #9 in Woodbridge on a report of shoplifting. Officers located a black male in the hotel lobby. He admitted taking some items from the gift shop and placing them in his car but stated he was going to pay for them. The suspect gave Officer Lee a Photo Tennessee Driver's license with the name Jamal Owens. Officer Lyszyk discovered the driver's license to be fraudulent. Officers decided to arrest the suspect for the shoplifting offense because they were unable to verify his identity. When advised him he was under arrest he jumped into a Hertz rental car and drove away. While fleeing the scene he struck patrol car #3 and caused Officer Lee to move out of his path to avoid injury. He also struck a hotel pillar in front of the building before exiting onto Route #9 North. Officers attempted to follow him but could not locate. Officers returned to the hotel and collected items that the suspect left behind including the Fraudulent Tennessee driver's license.

Detective Tapia arrived on scene and determined from the Officers and employees at the scene that the photo on the driver's license was the same as the suspect that fled the scene. Detective Tapia then sent the Tennessee driver's license photo to the New Jersey State Police Regional Operations Intelligence Center (ROIC) and the New York State Intelligence Center (NYSIC) for entry into facial recognition software.

January 27, 2019, Detective Tapia received notification from Rockland County Sheriff's Intelligence

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Center that they had a high profile comparison to the photo on the fraudulent Tennessee driver's license. The high profile comparison was identified as Nijeer Parks with a date birth of September 11, 1987. Detective Tapia compared the photo on the Fraudulent Tennessee driver's license photo with the photo on Nijeer Parks assigned New Jersey driver's license #P0619 59272 09872 and determined it to be the same person.

February 1, 2019, Detective Tapia contacted Middlesex County Assistant Prosecutor Nastasi and presented him with the facts of the case and he authorized a warrant. Detective Tapia then generated warrant #2019000156 against Nijeer Parks charging him with aggravated assault on a police officer, possession of a weapon and possession of a weapon for unlawful purpose. Municipal Court Judge Stahl read the affidavit of probable cause and signed the warrant.

February 5, 2019, Nijeer Parks responded to Woodbridge Police department because he became aware that a warrant was issued for his arrest. Mr. Parks was interviewed by Detective Andrew Kondracki, arrested and later in the day transported to the Middlesex County Correction Center in North Brunswick, NJ.

February 13, 2019, Nijeer Parks was released from custody at the Middlesex County Correction Center.

November 2, 2019, Middlesex County Prosecutor's Office decides not to pursue prosecution and the case is closed.

November 25, 2020, Nijeer Parks files False Arrest lawsuit against Woodbridge Township.

January 1, 2021, Woodbridge Police Internal Affairs starts investigation in to the lawsuit allegations. I started to collect and review all Reports, case files, statements, audio and video recordings and photographs related to this incident.

February 25, 2021 at 10:25am, I made contact with Nijeer Parks via phone #1-570-516-4620. I informed Mr. Parks I would be investigating the claims from his lawsuit. I asked Mr. Parks if he would speak to me about the claims and give me a statement. Mr. Parks declined my request and informed me he has an attorney.

March 3, 2021, I send out certified letter to Mr. Parks at 485 E. 19th Street Apt.#3G, Paterson, NJ 07522 formally requesting his input related to this investigation.

April 1, 2021, the certified letter is Returned to Sender unopened.

Findings / Conclusion:

Mr. Parks filed a lawsuit almost two years after his arrest but never made a formal Internal Affairs Complaint. When contacted by Internal Affairs he declined to comment on his complaint or provide

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any additional details.

I find that Detective Tapia acted in good faith when he submitted the fraudulent Tennessee driver's license photo for a facial recognition comparison. At the time of his submission, there were no restrictions on the use of facial recognition software. The New Jersey Attorney General advised Law Enforcement to stop using Certain Facial Recognition Software on January 24, 2020, almost one year after Detective Tapia used it.

Detective Tapia received approval for the warrant from an Assistant Prosecutor and a Municipal Court Judge.

I reviewed the photographs of Mr. Parks and the high profile comparison and they are similar, and could be mistaken as the same person.

I reviewed the audio and video recordings of Mr. Parks while he was in Woodbridge Police custody, and find no evidence of any mistreatment.

I conclude that Detective Santiago Tapia #481 is EXONERATED of the complaint of Improper Arrest. A record of this shall be entered into the Internal Affairs Index System.

Analysis of the Woodbridge Township Police Department Internal Affairs Investigation

It is duly noted that Nijeer Parks did not make an Internal Affairs complaint to the Woodbridge Police Department from February 5, 2019, the date of the incident when the alleged false arrest occurred to December 28, 2021 when Director Hubner received the false arrest complaint.

My review of the Attorney General IA Policy & Procedures that were in place, during Nijeer Parks investigation and the Woodbridge Police Department Internal Affairs Chapter 620, were revised to mirror the NJAG revisions and the Parks Internal Affairs report was in my professional opinion conducted accordingly.

The New Jersey Attorney General Internal Affairs Policy & Procedures Issued August 1991, Revised November 1992, Revised November 2000, Revised September 2011, revised July 2014, and revised August 2020, provides in relevant part:

Internal Affairs Policy & Procedures was first published in 1991. Updates to the policy were issued in 1992, 2000, 2011, 2014 and 2020. The purpose of the policy is to assist the State's law enforcement agencies with investigating and resolving complaints of police misconduct that originate with private citizens or are generated by the supervisors, officers or employees of a law enforcement agency. The goals of the policy are to enhance the integrity of the State's law enforcement agencies, improve the delivery of police services and assure the citizens of New Jersey that complaints of police misconduct are properly addressed.

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Every law enforcement agency shall adopt and implement guidelines which shall be consistent with the guidelines governing the "Internal Affairs Policy and Procedures" of the Police Management Manual promulgated by the Police Bureau of the Division of Criminal Justice in the Department of Law and Public Safety, and shall be consistent with any tenure or civil service laws, and shall not supersede any existing contractual agreements.

It is important for county and municipal law enforcement agencies to recognize that, as they conduct internal affairs investigations, they do so under the general supervision of the Attorney General. The Criminal Justice Act of 1970 designates the Attorney General as the State's chief law enforcement officer. (N.J.S.A. 52:17B-98). As such, the Attorney General is responsible for the general supervision of the State's law enforcement agencies to provide for the efficient administration of the criminal justice system. Subordinate law enforcement agencies, including county and municipal police forces, have a duty to cooperate with the Attorney General to improve the administration of the criminal justice system, including the efficient delivery of police services. For county and municipal law enforcement agencies, cooperation in internal affairs matters begins with strict adherence to the Attorney General's policy requirements.

County and municipal law enforcement agencies must also recognize that they conduct internal affairs investigations, particularly those that involve allegations of criminal conduct, under the direct supervision of the county prosecutors.

County and municipal law enforcement agencies must inform the appropriate county prosecutor when allegations of police misconduct involve potential criminal conduct. In addition, county and municipal law enforcement agencies must confer with and follow the instructions given by the county prosecutor at all critical points in the investigative process. This is particularly true when the agency is in the process of gathering evidence, including the taking of statements, concerning allegations of criminal conduct.

It is my professional opinion the Woodbridge Township Police Department Policy & Procedure INTERNAL AFFAIRS Chapter 620 mirrors the NJ Attorney General Internal Affairs Policy and Procedures.

It is also duly noted that the Internal Affairs Unit's quarterly reports to the county prosecutor summarizing the allegations received and the investigations concluded for that period are posted online, in accordance with the New Jersey Attorney General and Woodbridge Township Police Department Internal Affairs Policy.

It is my professional opinion and duly noted that Lt. Joseph Velez completed the Middlesex County Training Center, Internal Affairs Policy and Procedures training on November 13, 2020 in accordance with the N. J. Attorney General Guidelines & Woodbridge Police Department Policy and Procedures.

It is also my professional opinion that a complete and proper internal affairs investigation was

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conducted in this matter and logical conclusions were arrived at based on the facts and evidence, in accordance with the New Jersey Attorney General Internal Affairs Policy & Procedures and the Woodbridge Township Police Department Internal Affairs Chapter 620.

It is my further professional opinion that Sgt. S. Tapia investigated in the December 29, 2021 Lt. Joseph Velez IA 2021-501 was appropriately and properly exonerated.

It is my professional opinion, based on my review of all of the records, materials and testimony in this matter. That the incidents alleged by Nijeer Parks do not establish any practice, scheme, custom policy or pattern of deliberate indifference on behalf of the Township of Woodbridge, the Woodbridge Township Police Department, Director Robert Hubner, Sgt. Tapia or any of the Woodbridge Township Police Department members involved in this matter, of any violations of the New Jersey Police Practices, Procedures and Training Standards and the Woodbridge Police Department Rules, Regulations, Policies & Procedures, the New Jersey Attorney General Guidelines, New Jersey Law or NJ Constitution.

Conclusions

Supported by my professional opinions contained within this report, I make the following findings and conclusions:

1. The Township of Woodbridge, The Woodbridge Township Police Department, Woodbridge Township Police Director Robert Hubner, and all of the Woodbridge Township Police Department members involved in this matter, acted in good faith, reasonably, justifiably, properly and in accordance with accepted New Jersey police practices, procedures and training standards, the New Jersey Police Training Commission Performance Objectives, the New Jersey Attorney General Guidelines, the New Jersey Criminal Code, Motor Vehicle Statutes, the Woodbridge Township Police Department Rules, Regulations, Policies & Procedures, Training Standards, and the New Jersey Constitution.
2. The Township of Woodbridge appropriately and properly established the Adopting Ordinance to form the Woodbridge Township Police Department, in accordance with accepted New Jersey police practices and Statutes.
3. The Township of Woodbridge appropriately and properly established the Woodbridge Township Police Department in accordance with New Jersey Statute Annotated 40A:14-118 et seq.
4. It is my professional opinion that the Township of Woodbridge appropriately and properly established the Adopting Ordinance to form the Woodbridge Police Department, which included the process of a departmental accreditation through the Commission On Accreditation For Law Enforcement Agencies (CALEA); in accordance with accepted New Jersey Police Practices and Law.

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5. It is my professional opinion that the Accreditation is a process and time-proven method of assisting law enforcement agencies to calculate and improve their overall performance. The foundation of Accreditation lies in the adoption of standards containing a clear statement of professional objectives. Participating agencies conduct a thorough self-analysis to determine how existing operations can be adapted to meet these standards and objectives. When the procedures are in place, a team of trained, independent assessors verifies that the applicable standards have been successfully implemented.

6. It is also my professional opinion that the CALEA accredited Woodbridge Police Department is a highly professional police organization with all of the necessary Rules, Regulations, Policies and Directives to efficiently, professionally, and effectively carry out all of the police functions of a New Jersey Police Agency, in accordance with accepted New Jersey police practices and procedures.

7. It is my further professional opinion that the Accredited status represents a significant professional achievement. Accreditation acknowledges the implementation of policies and procedures that are conceptually sound and operationally effective.

8. It is my professional opinion that the members of the Woodbridge Township Police Department were properly trained in accordance with the New Jersey Law, New Jersey Police Training Commission Performance Objectives and the Woodbridge Township requirements.

9. It is my professional opinion and duly noted that the Woodbridge Police Department training office use NJ Learn and the PowerDMS program which provides a central, standardized system for tracking and documenting field training, recruit on boarding and employee performance. The program printout is part of the training records of each of the Woodbridge Police Department police officers involved with the Parks investigation.

10. My review of the training records of Lt. Edward Barrett, Lt. Joseph Velez, Lt. Michael Ng, D/Sgt. Anthony Penicaro, D/Sgt. Andrew Kondracki, Sgt. Santiago Tapia, Det. Jorge Quesada, Off. Andrew Lyszyk, Off. Francis Lee, & Off. David Mirdaia, revealed that each of Woodbridge Police Department members received numerous and a variety of specialized law enforcement related training and each of them had a lengthy computer based training which included arrest, search & seizure.

11. It is my further professional opinion that the Township of Woodbridge and the Woodbridge Township Police Department have a systematic in-service training program which includes the Attorney General and Middlesex County Prosecutor's Office use of force guidelines and also includes in each session a review of the domestic violence policy, pursuit policy and aerosol agents, as well as arrest, search and seizure.

12. It is also my professional opinion that each of the Woodbridge Police members involved in this incident were highly and professionally trained in all relevant areas of law enforcement which included legal updates which includes statutory and/or case law which affects law enforcement

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operations

13. It is also my professional opinion that each of the Woodbridge Police members involved in this incident were highly and professionally trained in all relevant areas of law enforcement which included probable cause, legal updates which includes statutory and/or case law which affects law enforcement operations.

14. It is also my professional opinion that each Woodbridge Police Officer involved in this Nijeer Parks investigation were highly and thoroughly trained from their Basic Academy Training, through their specialized training and continual agency training and on a daily field learning experience, in accordance with accepted police practices, New Jersey Law, New Jersey Attorney General guidelines, Woodbridge Township Police Department Rules, Regulations, Policies & Procedures.

15. It is my further professional opinion that Officer Lyszyk in his exemplary performance, responded to the shoplifting call, made his observations, recovered suspected marijuana, and went to his patrol vehicle and looked into his personal book that identifies government licenses, telephoned the Tennessee State Police and confirmed the license was fictitious, called for more Woodbridge Officers to preserve the scene, continue the investigation and secured the evidence, in accordance with accepted New Jersey Police Practices & Procedures, and his overall training knowledge and experience enumerated above.

16. It is duly noted that on January 24, 2020, a year after the Parks arrest, New Jersey Attorney General Gurbir S. Grewal, told state prosecutors in all 21 counties on Friday that police officers should stop using the Clearview AI app. Nowhere in his ban did the Attorney General refer to "racially biased".

17. It is my professional opinion that Sgt. S. Tapia appropriately and properly used his on the job training knowledge to send the fraudulent Tennessee drivers license to the New Jersey Regional Operations Center (ROIC) and the New York State Intelligence Center (NYSIC) Rockland County Sheriff's Intelligence Center (RCSIC) for Facial Recognition Technology (FRT) comparison as a tool to identify the Hampton Inn suspect, in accordance with accepted New Jersey police practices, procedures, training standards, New Jersey Attorney General Guidelines, the New Jersey Police Training Commission Performance Objectives, the Woodbridge Township Police Department Training and New Jersey Criminal Law.

18. It is my professional opinion that the Woodbridge Township Police Department utilized their officers with the appropriate expertise, experience and training to respond to the Hampton Inn shoplifting complaint on January 26, 2019 and as the process continued turned the investigation over to the detectives and crime scene personnel for continued investigation, evidence collection and documentation and submission, in accordance with accepted police practices, New Jersey Law, New Jersey Attorney General guidelines, Woodbridge Township Police Department Rules, Regulations, Policies & Procedures.

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19. It is my further professional opinion that the Woodbridge Township Police Department continued to verify the leads generated and received as testified by Det. Quesada in accordance with accepted police practices, New Jersey Law, New Jersey Attorney General guidelines, Woodbridge Township Police Department Rules, Regulations, Policies & Procedures.

20. It is my knowledge and professional opinion that when an individual is arrested in New Jersey, as Nijeer Parks admitted and was, the individual during processing is photographed and fingerprinted and that those photographs and fingerprints (mugshot & prints) are then on file in the New Jersey State Police, Bureau of Identification and recorded.

21. It is my professional opinion that Sgt. Tapia and Officer Lyszyk, appropriately, professionally and properly conferred with Middlesex County Assistant Prosecutor Peter Nastasi, the Woodbridge Police Department liaison and after his review and counsel appeared before Municipal Judge David Stahl, on January 30, 2019 and signed the Nijeer Parks complaint warrants, in accordance with the Middlesex County Prosecutor's Office directive and the Woodbridge Police Department Directive Policy and Procedures.

22. It is my professional opinion that the Cilento report is fraught with his own biased opinions and innuendo's with statements like on page 5, "However, "[officers] should not use their firearm to shoot at or from a moving vehicle unless deadly physical force is being used against them other than the vehicle." or "The act of showing PO Lyszyk the single photo of Nijeer Parks from the facial recognition hit was a confirmatory identification procedure. It is well known, and considered a best practice, to only utilize single-photo confirmatory identifications when there is a prior relationship between the parties and/or a close temporal proximity to the incident. Neither factor was present in this case, rendering this identification procedure improper, highly suggestive, and likely inadmissible. Further, as it pertains specifically to the identification procedure, it is of no legal significance that PO Lyszyk is a police officer, and under these facts should have been treated like any other witness. Not taking into account that PO Lyszyk is a properly trained N.J. police officer in accordance with the New Jersey Police Training Commission Performance Objectives which includes eye witness observation.

23. It is my professional opinion and duly noted that Lt. Joseph Velez completed the Middlesex County Training Center, Internal Affairs Policy and Procedures training on November 13, 2020, and Lt. Edward Barrett completed the Middlesex County, Internal Affairs Policy and Procedures training on April 28, 2017, in accordance with the N. J. Attorney General Guidelines & Woodbridge Police Department Policy and Procedures.

24. It is also my professional opinion that a complete and proper internal affairs investigation was conducted in this matter and logical conclusions were arrived at based on the facts and evidence, in accordance with the New Jersey Attorney General Internal Affairs Policy & Procedures and the Woodbridge Township Police Department Internal Affairs Chapter 620.

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25. It is my further professional opinion that Sgt. S. Tapia investigated in the December 29, 2021 Lt. Joseph Velez IA 2021-501 was appropriately and properly exonerated.

26. It is my professional opinion, based on my review of all of the records, materials and testimony in this matter. That the incidents alleged by Nijeer Parks do not establish any practice, scheme, custom policy or pattern of deliberate indifference on behalf of the Township of Woodbridge, the Woodbridge Township Police Department, Director Robert Hubner, Sgt. Tapia or any of the Woodbridge Township Police Department members involved in this matter, of any violations of the New Jersey Police Practices, Procedures and Training Standards and the Woodbridge Police Department Rules, Regulations, Policies & Procedures, the New Jersey Attorney General Guidelines, New Jersey Law or NJ Constitution.

27. It is my professional opinion that Officer Lee positively identified Nijeer Parks as the individual he had interactions with at the Hampton Inn on January 29, 2019.

28. It is my professional opinion that Officer Lyszk positively identified Nijeer Parks as the individual he had interactions with at the Hampton Inn on January 29, 2019.

29. It is also my professional opinion that Det. Tapia utilized facial recognition as a tool to identify Nijeer Parks, along with the identifications of Officers Lee and Lyszk, had developed enough probable cause, confirmed by Assistant Prosecutor Nastasi, to sign the complaint warrant.

Regards,

Major Joseph J. Craparotta (Ret.)
President

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EXHIBIT “V”

Daniel W. Sexton, Esq. LLC

ATTORNEY AT LAW
229 New Centre Road
Hillsborough, New Jersey 08844
PHONE: (201) 332-5455
FAX: (201) 332-5455
DanielSextonEsq@gmail.com

March 21, 2023

Via email only: FRubenstein@jpnlaw.us

Frederick L Rubenstein (Woodbridge Defendants)
James P. Nolan & Associates
61 Green Street
Woodbridge, NJ 07095

Via email only: Phoenix.Meyers@law.njoag.gov

Phoenix Meyers, DAG
Division of Law
Hughes Justice Complex
Trenton, NJ 08625

RE: Parks, Nijeer v. Middlesex County Prosecutor, et al.
Docket 2:21 — cv— 04021

Dear Counsel:

Please find the initial report of Plaintiff's liability expert, Ralph Cilento, along with his CV. Plaintiff reserves the right to supplement same in light of continuing discovery.

Please provide your proposed statement for the joint letter on settlement negotiations which is to be submitted today as soon as possible.

Thank you for your continued courtesies in this regard.

Very truly yours,


Daniel W. Sexton

SWD/DS
cc client



BLUE TOP CONSULTING

PROFESSIONAL DEVELOPMENT FOR LAW ENFORCEMENT

Ralph Cilento is a retired Lieutenant Commander of Detectives in the NYPD with more than twenty-seven years of experience in the New York City Police Department. Lt. Cilento has been assigned to supervise investigations for more than 16 years, commanding detectives in the 44th, 45th, and 48th Precinct Detective Squads, Bronx Homicide Squad and Major Case Squad. Lt. Cilento served as the NYPD's project manager and authority on Electronic Recording of Custodial Interrogations and implemented all facets of the program throughout the city, as well as having authored the current NYPD policy on electronic recording of custodial interrogation.

He has testified as an expert witness for the NYPD and provided sworn testimony before the New York State Criminal Justice Task Force regarding witness intimidation and open discovery statutes. While serving as Commanding Officer of the NYPD's Detective Bureau Training Unit, he was responsible for developing, implementing, and assessing training for more than 5000 members of the NYPD's Detective Bureau, including the college accredited and nationally recognized courses: Homicide Investigators Course, Special Victims Investigators Course, Criminal Investigators Basic Course, and the Custodial Interrogation Course. He has co-authored sections of the NYPD Patrol and Detective Guides relating to general operational policy, identification procedures, and custodial interrogation.

In his capacity as a respected law enforcement educator, he has traveled throughout the country to deliver lectures on various law enforcement topics including homicide investigation, and custodial interrogation. He is core faculty member of the FBI's INLETS Violent Crimes Training Services. He has guest lectured at several non-law enforcement public safety/conflict resolution educational events such as Metro North Railroad, The Rubin Museum of Art, Pace University Law School, Autism Speaks, and the NYS Baseball Umpires Association. He has also appeared as a subject matter expert on FOX5, PIX11, Fox News and the nationally syndicated, series, *The Dr. Oz Show*, and History Channel's *"History's Greatest Mysteries"*.

Lt. Cilento holds a B.A. degree in History and Psychology from Pace University and is an MPA candidate and an Adjunct Professor of Police Science at John Jay College of Criminal Justice in New York City. He is a member of the International Association of Chiefs of Police (IACP), and a graduate of the 271st Session of the FBI National Academy, where he also served as the class president.



Ralph Cilento - Blue Top Consulting Inc.

Report and Analysis Regarding the Arrest of Nijeer Parks by Woodbridge NJ Police Department

Case of Parks, Nijeer v. McCormack, John, et al.

Civil Action 2:21-cv-04021

Introduction:

On February 5, 2019, at about 11:18am, Nijeer Parks was arrested by the Woodbridge Police Department and charged with two counts of Aggravated Assault, two counts of Criminal Possession of Weapons, Shoplifting, Hindering Apprehension of Prosecution, Possession of CDS (Marijuana) under 50 Grams, Use or Possession of Drug Paraphernalia, Obstructing Administration of Law or other Government Official, Exhibits False Government Document, Resisting Arrest/Flight, Eluding, and Criminal Mischief.¹

The arrest was the result of an incident occurring on January 26, 2019, at the Hampton Inn Hotel, 370-US 9, Woodbridge Township, NJ. A sum and substance account of the incident is as follows: On the aforementioned date, an unknown male black subject entered the lobby of the Hampton Inn and began taking items from the gift shop. The subject apparently arrived in a rented 2018 grey Dodge Challenger, NY registration JBD2126. The hotel manager, Richard Charneco, called the police and Officer Francis Lee responded, followed by Officer Andrew Lyszyk, in separate marked police vehicles. After the unknown male emerged from the bathroom in the hotel lobby, he was verbally engaged by PO Lee. The male admitted to taking the items, apologized, and offered to pay for the items. PO Lee requested identification from the male, who, in response, handed him a Tennessee driver's license bearing the name Jamal Owens. Multiple computer checks revealed that the license was fraudulent. The male eventually did pay for the items. PO Lyszyk asked the subject to turn around so he could place him under arrest for shoplifting and possession of the fraudulent license. At that time PO Lyszyk observed what appeared to be a bag of marijuana in the subject's jacket pocket. When PO Lyszyk attempted to handcuff the suspect, the suspect fled out of the lobby through the rear door. With the officers giving chase, the suspect ran to, and entered, his vehicle. With the suspect in his vehicle and the vehicle running, POs Lee and Lyszyk drew

¹ Woodbridge PD Booking Report #TW00019000220, Mirdala, D.



their service weapons and ordered him out of the car. The officers also radioed for additional units. The suspect did not comply with these demands and attempted to hit PO Lee with the vehicle. The suspect crashed into one of the marked police units and a support pillar of the hotel, and fled out of the parking lot onto Route 9N at a high rate of speed. The officers initially chased the suspect but then terminated the pursuit when they lost sight of the suspect's vehicle. POs Lee and Lyszyk returned to hotel, and turned the investigation over to the detective bureau.²

Multiple officers arrived at the scene, including Detectives Santiago Tapia and Jorge Quesada, both of whom collected several items of physical evidence left behind by the suspect including, but not limited to, the fraudulent Tennessee driver's license that was handed to PO Lee, a discarded water bottle, and a sneaker which fell off the suspect's foot as he evaded capture.³ Detective Quesada also recovered three useable fingerprints from glass of the rear lobby door of the hotel.⁴ Detective Tapia then transmitted the picture from the Tennessee driver's license to the Regional Operations Intelligence Center (ROIC) and, by extension, the New York State Intelligence Center (NYSIC) for analyzation using facial recognition.⁵ The facial recognition inquiry borne from the image on the Tennessee driver's license produced an incorrect "hit" wrongfully identifying plaintiff, Nijeer Parks, as the person depicted on the Tennessee Driver's License. The resulting investigation culminated with the wrongful arrest and malicious prosecution of Nijeer Parks until his criminal case was eventually dismissed on or about November of 2019, some nine months after his arrest.

Attorneys for the plaintiff, Nijeer Parks, have retained my services as an expert in police policy and procedure. The goal of this report is to provide an after-action critique and analysis of the entire incident surrounding the wrongful arrest of Nijeer Parks, and in doing so, identifying matters within the scope of my expertise about which I have been hired to analyze. The ultimate use of this report is to inform the Court about matters possibly outside the Court's expertise concerning the disputed matters before it, and upon which the Court must reach a decision; specifically, the actions of the Woodbridge Police Department personnel leading to the wrongful arrest of Nijeer Parks on February 5, 2019.

² Woodbridge PD Incident Report #19010123, Lee.

³ Lyszyk deposition, Page 36.

⁴ Woodbridge PD I.D Bureau report (PARKS 97,98).

⁵ Woodbridge Incident Report #19010123-4, Tapia.



Following the above **Introduction** of the report, and the **Background and Qualifications** section, I have broken the incident down into four distinct sections for analysis and review as follows:

- I. Actions of Woodbridge Police Department personnel at the Hampton Inn**
- II. Subsequent Investigation of Incident**
- III. Supervision/Training**
- IV. Defensive Avoidance, Cognitive Bias, and Investigative Failure**

Report Sections I-IV will be followed by sections V-VIII as indicated below:

- V. Conclusion**
- VI. Documents Reviewed**
- VII. Publications Reviewed**
- VIII. Fee schedule**

Background and Qualifications:

I am currently employed by Putnam County, NY District Attorney's Office as the Chief Criminal Investigator. I am a retired Lieutenant Commander of Detectives in the NYPD with more than twenty-seven years of experience in the New York City Police Department. I have been assigned to supervise investigations for more than 16 years, commanding detectives in the 44th, 45th, and 48th Precinct Detective Squads, Bronx Homicide Squad, and Major Case Squad. I served as the NYPD's project manager and authority on Electronic Recording of Custodial Interrogations and implemented all facets of the program throughout the city, as well as having authored the current NYPD policy on electronic recording of custodial interrogation.

I have testified as an expert witness for the NYPD and provided testimony before the New York State Criminal Justice Task Force regarding witness intimidation and open discovery statutes. In the latter part of my career, while serving as Commanding Officer of the NYPD's Detective Bureau Training Unit, I was responsible for developing, implementing, and assessing training for more than 5,000 members of the NYPD's Detective Bureau, including the college-accredited and nationally-recognized Homicide Investigators Course, Special Victims Investigators Course, Criminal Investigators Basic Course, and Custodial Interrogation Course. I have co-authored



sections of the NYPD Patrol and Detective Guides relating to general operational policy, identification procedures, and custodial interrogation.

In my capacity as a law enforcement educator, I have traveled throughout the country to deliver lectures on various law enforcement topics including homicide investigation, custodial interrogation, management, ethics, and general police function. I am a core faculty member of the FBI's INLETS Violent Crimes Training Services. I have guest lectured at several non-law enforcement public safety and conflict resolution educational events for clients including, but not limited to, Metro North Railroad, The Rubin Museum of Art, Pace University Law School, Autism Speaks, and the NYS Baseball Umpires Association. I have appeared as a subject matter expert on FOX5NY, PIX11, Fox News, the nationally syndicated series "*The Dr. Oz Show*," and History Channel's "*History's Greatest Mysteries*."

I hold a B.A. degree in History and Psychology from Pace University, an MPA candidate at John Jay College, and a graduate of the 271st Session of the FBI National Academy, where I also served as Class President. I am an Adjunct Professor of Police Science at John Jay College of Criminal Justice in New York City, a member of the International Association of Chiefs of Police (IACP), and the FBI National Academy Associates. I have been granted Top Secret security clearance by the U.S. Department of Defense.

I. Actions of The Woodbridge Police Department Personnel at The Hampton Inn

The Woodbridge Police Department covers about twenty-five square miles in Middlesex County, New Jersey. It is staffed by approximately 220 sworn officers and led by Police Director Robert Hubner, who has held the position since 2011.⁶ This incident began as a radio run for a shoplifter at the Hampton Inn broadcasted to POs Francis Lee and Andrew Lyszyk. The immediate police response to the hotel is not what led to the wrongful arrest of Nijeer Parks. Rather, it was the improper police investigation that followed. Nonetheless, for the purpose of the thoroughness of this report, an analysis of the initial source event and responding officers' and detectives' actions will be conducted herein.

⁶ <https://www.twp.woodbridge.nj.us/197/Police-Department>.



Although the 911 call from The Hampton Inn was assigned to Car 3 (Officer Lyszyk), Officer Lee, who was assigned to assist, arrived on the scene first.⁷ PO Lee interviewed the hotel manager, Mr. Charneco, and determined that the suspect was still on the scene. Having arrived at the scene thereafter, PO Lyszyk had established probable cause to arrest the unknown male black suspect because he had admitted to taking the items and offered to pay for them.⁸ WPD officers may effect an arrest for the crime of shoplifting although not specifically witnessed,⁹ and PO Lyszyk additionally believed that the suspect was in possession of a fraudulent Tennessee Driver's License. When PO Lyszyk attempted to arrest the perpetrator by asking him to "turn around" he noticed that the suspect was in possession of suspected marijuana which was visible in the perpetrator's jacket.¹⁰ The perpetrator then "slipped away and ran off," and ran out the back door.¹¹ Thus far, the initial patrol response of POs Lee and Lyszyk were consistent with best practices, in that they responded to the call for police service in a timely manner, conducted a proper cursory field investigation, engaged the suspect in a professional manner, correctly developed probable cause, and attempted to place the perpetrator under arrest.

When the perpetrator fled through the rear lobby door of the hotel one of his shoes came off. The suspect then ran around the hotel and entered his vehicle. Officers Lee and Lyszyk properly informed the dispatcher via their department radio that they were engaged in a foot pursuit of the suspect. After the suspect entered his vehicle, the officers drew their service weapons and demanded that the suspect get out of his vehicle. It is widely understood in police work that an officer's decision to draw their firearm at an incident should be based on the officer's perception that their life or the lives of others are in grave risk of serious physical injury or death. However, "[officers] should not use their firearm to shoot at or from a moving vehicle unless deadly physical force is being used against them *other than the vehicle*. Prematurely drawing a firearm may limit the [officer's] options in controlling a situation and may result in an unintended discharge of the firearm."¹²

The suspect did not obey the officers' commands and proceeded to use his vehicle to ram one of the officer's marked cars and crash into a support pillar of the hotel. Officer Lee states that he had

⁷ Woodbridge Incident report #19010123-2, Lee.

⁸ Lyszyk deposition, page 14.

⁹ Woodbridge Policies and Procedures manual 115.2.1 – D2.

¹⁰ Lyszyk deposition, page 15.

¹¹ *Id.*, page 16.

¹² NYPD Patrol Guide, 221.01 Use of Force Guidelines.



to jump out of the way in order to avoid being struck by the perpetrator's car.¹³ The suspect then sped off onto Route 9. The officers initially began a vehicle pursuit but terminated it as they had lost sight of the subject's vehicle.¹⁴ The termination of the pursuit was the correct action by the officers because when "the pursued vehicle's location is no longer known or the distance between the pursuing vehicles and the violator's vehicle becomes so great that further pursuit is futile."¹⁵ Officers Lee and Lyszyk then returned to the Hampton Inn to secure the [crime] scene and called for detectives.¹⁶ The abandoned car would eventually be recovered by other officers and more evidence would be safeguarded from within the car, including a receipt from Dunkin Donuts.

At minimum, Detectives Quesada, Brewer, and Tapia were present at the hotel and began to process the crime scene.¹⁷ Detective Tapia spoke to POs Lee and Lyszyk and then secured the crime scene in order to "preserve evidence that had been left behind by the suspect, specifically one shoe and one empty water bottle."¹⁸ Tapia further stated, "I had them secure the glass door to the lobby that the suspect had exited from."¹⁹ Detective Tapia then attempted to, and eventually did, obtain video surveillance from the hotel clerk. Detective Quesada collected and packaged evidence and recovered multiple fingerprints from the rear hotel lobby door. Detectives Tapia and Quesada acted properly at the scene in that they identified, collected and packaged evidence, including the suspect's sneaker, photographed the scene, secured items for possible DNA recovery, and recovered possible fingerprints where they were available on the rear glass door. The collection of crime scene evidence, and actions to catalogue them appear to be largely in compliance with Woodbridge Police Department Policy and Procedures – Collection and Preservation of Evidence, Chapter 870.²⁰ Once Det. Tapia verified with POs Lee and Lyszyk that the person on the fraudulent Tennessee Driver's license was the same person they had encountered in the lobby,²¹ he was correct in utilizing all legal investigative means necessary to attempt to identify the suspect. As such, Det. Tapia's determination to send the photo on the Tennessee Driver's license to the Regional Operations Intelligence Center (ROIC) and the New York State Intelligence Center (NYSIC)²² was an appropriate investigative step.

¹³ Woodbridge Incident report #19010123-2, Lee.

¹⁴ Lyszyk deposition, page 17.

¹⁵ Woodbridge Police Department Policy and Procedures, 512.2.2, A4.

¹⁶ Lyszyk deposition, page 17.

¹⁷ Id.

¹⁸ Tapia deposition, page 55.

¹⁹ Id.

²⁰ Woodbridge Police Department Policy and Procedures, Chapter 870.

²¹ Woodbridge Incident report #19010123-4, Tapia.

²² Id.



II. Subsequent Investigation of Incident

Several of the necessary post-incident investigative steps in this case were ignored, dismissed, or improperly executed which led to Nijeer Parks to be misidentified, wrongly arrested, and wrongly charged with the crimes at the Hampton Inn Hotel. A temporal order of events and critiques of those events that transpired after the initial incident at the hotel are as follows:

- a. On January 26, 2019, Det. Tapia verified that the photo on the Tennessee driver's license was the person with whom POs Lyszyk and Lee engaged in the hotel lobby by showing each one of them the license separately.²³ This was an **appropriate, but unnecessary, investigative step** because the suspect had previously given the license to these officers, who had turned it over to Det. Tapia. Therefore, there was no need for him to show them the license again.
- b. On January 26, 2019, Det. Tapia contacted the Regional Operations Intelligence Center (ROIC) and requested assistance from their facial recognition technology to help identify the person on the license photo. This was an **appropriate investigative step**. Detective Tapia, as the lead detective, should use all legal means necessary and available to generate investigative leads to attempt to identify the perpetrator as soon as possible after the initial event.
- c. On January 28, 2019 at 8:40am, two days after the incident, Rockland County Intelligence Center Inv. Seamus Lyons contacted Det. Tapia via email in which he stated that he got a "good possible hit on facial recognition," and provided the name and photograph of Nijeer Parks.²⁴ Detective Tapia replied to the email at 9:16am and wrote "That's him,"²⁵ Det Tapia's assertion of "that's him" in the email was **improper**, but also legally negligible. Det. Tapia had never seen the suspect in person and therefore was not in the position to affirmatively state any position on the suspect's identity, but he appeared to be merely responding to the viewing of the facial recognition photo and the likeness of the photo on the Tennessee driver's license. His reaction is understandable on a human level because of the excitement an investigator presumably feels when receiving a good investigative lead.

²³ Tapia deposition page 132.

²⁴ Tapia/Lyons email (PARKS 35).

²⁵ Id.



However, it does speak to an investigator's *Defensive Avoidance* which will be addressed later in this report.

- d. After Det. Tapia received the facial recognition photo of Nijeer Parks, he showed that single photo to PO Lyszyk, who stated that he was 100% sure that the person in the photograph was the perpetrator from the hotel.²⁶ This was an **improper investigative step**, and the **first bad identification procedure conducted**. This one event lies at the heart of this case and marks the beginning of the downward spiral of legal and procedural missteps by the Woodbridge Police Department. It is clear that Det. Tapia wrongfully believed that he had conducted a valid "confirmatory identification" with PO Lyszyk and thereby utilized that confirmatory identification to establish probable cause. Both assertions are incorrect. The correct investigative step at this time would have been to recognize this facial recognition hit for what it legally was: merely an investigative lead. Because facial recognition hits are inherently suggestive, effectively creating a software generated doppelganger; it becomes critical for investigators to complete a range of investigative steps. Some basic investigative steps which are consist with best practices and should have been completed in this case prior to showing a photograph to witnesses, or taking Nijeer Parks into custody are:

Incarceration status- If available, verify the subject was not incarcerated at the date and time the crime was committed.²⁷

Public records search- use tools provided by public data services companies to check on the likelihood of the subject having a twin, sibling, or similar-looking relative.²⁸

Open-source social media search- Look for other potentially legitimate alibis, such as photos or messages posted on the same date and time of the crime from an alternate location. Additionally, does posted photos look like the probe image (same clothes) or produce incriminating evidence (admissions or images depicting proceeds from crime).²⁹

Vehicles- is the subject connected to any vehicles (registration, summons, accident report, etc.)? If so, check license plate reader history (if available) of the vehicle to see if it was in the vicinity of the crime scene, as well as toll transponder history, if applicable.³⁰

²⁶ Tapia deposition, page 134.

²⁷ IDEMIA Best Practices for Facial Recognition Leads, 2021

²⁸ Id.

²⁹ Id.

³⁰ Id.



Known address(es)- Does the subject live in the vicinity of the crime scene? If not, is there any documented history of the subject frequenting the area (prior arrests, relatives, girlfriend, boyfriend, etc.)³¹

Arrest history- is the subjects arrest history comparable to the crime being investigated?³²

Other forensic/biometric evidence- Check on status of other forensic/biometric evidence collected. Attempt to expedite the processing of fingerprint and or DNA evidence, if applicable.³³

After these recommended computer checks were completed, and having compared all the rest of the physical evidence recovered at the scene to Nijeer Parks for inculpation or exculpation, Det. Tapia would have been in the position to make a more informed assessment of the totality of the circumstances.

The act of showing PO Lyszyk the single photo of Nijeer Parks from the facial recognition hit was a confirmatory identification procedure. It is well known, and considered a best practice, to only utilize single-photo confirmatory identifications when there is *a prior relationship between the parties and/or a close temporal proximity to the incident*. Neither factor was present in this case, rendering this identification procedure **improper, highly suggestive, and likely inadmissible**. Further, as it pertains specifically to the identification procedure, it is of no legal significance that PO Lyszyk is a police officer, and under these facts should have been treated like any other witness. Therefore, an identification procedure of the kind outlined by the New Jersey Attorney General's Office's guide for out-of-court identifications, or a corporeal line up would have been the correct investigative step. By assessing the available discovery in this case, it is apparent that PO Lyszyk did not personally know the suspect and had never seen him prior to the incident at the hotel, and therefore did not have familiarity with him sufficient to participate in a confirmatory identification process. Because the facial recognition lead was generated and communicated two days after the interaction with the suspect, PO Lyszyk is well outside any temporal proximity, as described and thusly cannot properly participate in a confirmatory identification procedure.

³¹ Id.

³² Id.

³³ Id.



- e. Detective Tapia utilized the procedurally incorrect and inadmissible confirmatory identification of Nijeer Parks by PO Lyszyk to establish probable cause for arrest. This was an **invalid and incorrect investigative step**. Facial recognition “hits” are merely investigative leads. They should not be the sole investigative product that establishes probable cause. Detective Tapia himself acknowledged this fact.³⁴
- f. Detective Tapia incorrectly believed that he had established probable cause to arrest Nijeer Parks, which then prompted him to call to Assistant Prosecutor Natasi.³⁵ In doing so, it is apparent from reviewing the discovery in this case, that Det. Tapia made the conscious decision to abandon all other investigative processes and unilaterally moved forward to have warrants sworn and to arrest Nijeer Parks.³⁶ This was an **incorrect investigative step**. All leads and evidence should be followed up on, and pursued to their natural end, when investigating a case – particularly a crime as serious as a felony assault against a police officer, and especially a case where a lead is generated by facial recognition all while acknowledging the limitations of the technology.
- g. In drafting the Affidavit of Probable Cause, Det. Tapia wrote that he “compared the photo on the fraudulent Tennessee driver’s license to Nijeer Parks’ real New Jersey driver’s license, and it is the same person.”³⁷ This was an **incorrect investigative step**. There are three problematic issues with this one statement. Taken in order, the first problem is that in stating that “he compared the photo[s],” Det. Tapia is introducing yet another identification procedure into this case, one that has no legal legitimacy yet he asserts it to bolster probable cause against Nijeer Parks. Second, and most obvious, Nijeer Parks does not have a New Jersey driver’s license. If Det Tapia simply confused a New Jersey non-driver ID or learner’s permit with an actual New Jersey driver’s license, the error would be of no legal consequence because the photo formats would presumably be the same. But in the Affidavit of Probable Cause, he refers to the item as “Nijeer Parks’ real New Jersey driver’s license,” in effect asserting that Nijeer Parks possessed and/or produced the fraudulent Tennessee one possessed by the perpetrator, which is a conclusion that Det. Tapia is unable to make. However, he used that phraseology to again bolster his Affidavit of Probable Cause. Third, Det. Tapia has no special training, no standing, and no basis

³⁴ Tapia deposition, pages 50, 52, 53.

³⁵ Id., page 135.

³⁶ State of New Jersey Complaint-Warrant (PARKS 1-7).

³⁷ State of New Jersey Affidavit of Probable Cause (PARKS 8).



whatsoever to affirmatively state that the person in the photo recognition hit “is the same person” as the individual who was at the hotel. He never personally made a corporeal observation of the suspect at the hotel and therefore he was not competent to draw this conclusion. Yet, this is the second instance where he determined *on his own* that Nijeer Parks is the suspect from the hotel lobby, irrespective of the fact that he had never seen the suspect in person. Again, this phrase would ordinarily be considered harmless had it not been written to bolster probable cause, which is the intent of its usage here. It is not clear whether Det. Tapia, a twenty-year veteran, was unaware of the significance of what he was affirming, or whether he *was* aware and chose to do so anyway. In either event, this was **improper**.

- h. After reviewing the deposition testimony of PO Lyszyk and Det Tapia, it’s clear there was a rush to get the complaint-warrants and Affidavits of Probable Cause signed quickly. Detectives Goines and Tapia and PO Lyszyk then set out in one vehicle in an unsuccessful attempt to arrest Nijeer Parks at his home in Paterson, NJ.³⁸ Although there is nothing inherently improper about this, there is a patina of haste conferred just from reading it. Consider that Woodbridge Township Police Department is thirty-two miles away from Paterson, NJ, where Nijeer Parks lives. The trip takes approximately forty-five minutes to drive. It seems unlikely and far outside normal process that PO Lyszyk, a uniformed patrol officer, would go with two detectives forty-five minutes away, outside the Woodbridge Police Department’s jurisdiction, to make an arrest on an open complaint. As a police manager, I would never allow that to occur.
- i. Detective Tapia stated that he looked at the Dunkin Donuts receipt recovered by Det Quesada and called them [Dunkin Donuts] to see if they had video available.³⁹ However, he failed to follow up with recovering the video. This was an **incorrect investigative step**. The Dunkin Donuts video was a highly probative investigative lead, which was not exploited, and probably would have yielded exculpatory evidence very early in the investigation, which could have eliminated Nijeer Parks as the suspect irrespective of any facial recognition hit. No known attempt was ever made to recover the video from Dunkin Donuts. In preparation for this report, and with minimal difficulty, I was able to confirm

³⁸ Lyszyk deposition, page 1-7.

³⁹ Tapia deposition, page 61.

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that the Dunkin Donuts does in fact have multiple interior and exterior cameras, as illustrated in the attached photos. According to the manager, Ms. Lysaudi, those cameras archive recordings for a month. That video surveillance footage is permanently lost now. There is also a pole camera directly across the street that appears as if it's maintained by Montefiore Hospital Recreation Center personnel, but was actually installed and is maintained by the NYPD, which Det. Tapia would have discovered had he actually responded to the Dunkin Donuts location as basic investigative technique demands.



- j. On February 5, 2019, the day that Nijeer Parks surrendered at the Woodbridge Police Department, PO Lee was summoned in on his day off by Lieutenant Michael Ng who told him that “they might have someone from the January incident.”⁴⁰ Officer Lee came to the detective bureau, where “they said they might have someone that was involved in the January incident in the processing area or the booking area and they asked me to see if I could help identify.”⁴¹ He was then brought down to the arrest processing/booking area where he observed Nijeer Parks sitting on a bench in the cell area, cuffed to the railing some 20-30 feet away.⁴² Lt. Ng told him “that was the individual that they had brought in from the incident.”⁴³ **This was an improper and inappropriate investigative step, and constituted the second bad identification procedure.** This was an extraordinarily suggestive show up identification procedure, and one laden with mistakes. Consider that PO Lee was directed by his boss to come in on his day off, specifically to view “the individual from the incident.” Before even participating in the identification procedure, the expectations and subordinate rank pressure inherent with that situation are palpable, not to mention the subsequent peer pressure he would have endured from his fellow officers had

⁴⁰ Lee deposition, page 24.

⁴¹ Id., page 25.

⁴² Id., page 28.

⁴³ Id., page 27.



he failed to make the identification. Officer Lee testified in his deposition that even though he had “some conversation with the suspect at the Hampton Inn hotel, he was mostly watching his hands.”⁴⁴ Like PO Lyszyk, PO Lee did not know the suspect and had never seen him prior to this incident. He therefore could not participate in a legally sound show up identification procedure because he did not have prior familiarity with the suspect. In addition, ten days had passed since the incident, far beyond any temporal proximity that is a prerequisite for a single-person show up identification.⁴⁵ Officer Lee was purely a witness in this instance and it is of no legal consequence that he is a police officer. With Nijeer Parks present in the police building, the correct investigative step would have been to assemble a corporeal line up where PO Lee would have been instructed on the viewing of a line up, made to fill out the necessary documents applicable for a line up procedure - the steps that would have been done with a civilian witness.

- k. During Nijeer Parks’ interrogation, he made several important statements which necessitated investigatory action.⁴⁶ For example, he provided an alibi describing where he was and who he was with. He also stated that he did not possess a New Jersey driver’s license. Detective Kondracki, who conducted the interrogation, explored none of these assertions. This was an **incorrect investigative step**. Apropos of interrogations, suffice it to say, an experienced investigator would not simply halt an interrogation or stop an arrest process merely because the suspect claims, *he didn’t do it*. However, investigative prudence and professional responsibility demand that unambiguous claims made by the suspect that may exculpate the individual be followed up on without delay, lest we run the risk of sending an innocent man to jail because of laziness, apathy, or defensive avoidance, which seems to be the case here. Nijeer gave an emphatic alibi statement which included dates, times, locations, and names, as well as indicating to the detective that he did not possess a New Jersey driver’s license.⁴⁷ Detective Kondracki’s feigned interest in the content of Nijeer’s assertions were plainly evident during the interview, which was as unenthusiastic as it was ineffectual. According to the Woodbridge Police Department Policy and Procedures manual, some of the main goals of the interrogation process are to:

⁴⁴ Id., page 28.

⁴⁵ New Jersey Division of Criminal Justice – Instructions For Using Showup ID Procedure Worksheet (Rev.10/1/12).

⁴⁶ Video Interrogation Annotation Log, (PARKS 53).

⁴⁷ Id.



*“learn the truth,” “acquire all the facts,” and “gather information which may corroborate or disprove information obtained from other sources.”*⁴⁸ Detective Kondracki accomplished none of these goals. Although the interrogation was structurally and legally sound, according to the Woodbridge Police Department Policy and Procedures Manual,⁴⁹ it literally served no purpose. Nijeer Parks made no incriminating statements, and Det Kondracki made no attempt to investigate Nijeer’s exculpatory information. Even if the detective believed that Nijeer Parks was guilty of the crime, investigative responsibility demands follow up steps be taken to attempt to investigate his alibi.

III. Supervision/Training

Supervision

The lack of supervision in this case is of paramount importance and necessarily needs to be analyzed and critiqued. Several operational and investigatory missteps that occurred in the events surrounding Nijeer Parks’ arrest could have been avoided if Woodbridge Police Department supervisors were performing their first-line and middle management supervisory functions adequately. The failure to supervise exacerbated each incident in the timeline of events. Some noteworthy incidents of failed supervision are as follows:

- a. Det. Tapia’s original request to have the Tennessee Driver’s license photo submitted for facial recognition comparison **should require supervisory approval**.
- b. Det. Tapia’s errant “confirmatory identification” procedure with PO Lyszyk **should require supervisory oversight and approval**. Identification procedures should be supervised, period. They should require a supervisor’s assent and signature.
- c. PO Lyszyk and Det Tapia’s Complaint-Warrant and Affidavits of Probable Cause contain no supervisory signature line and therefore there is no indication that they were approved by a supervisor. Therein, PO Lyszyk falsely represented Nijeer Parks’ name several times as the known perpetrator.⁵⁰ These errors **could have been avoided with supervisory**

⁴⁸ Woodbridge Policy and Procedures Manual, Section 100.2.2A.

⁴⁹ *Id.*, 100.4.4.

⁵⁰ Tapia/Lyszyk Complaint-Warrant, Affidavit of Probable Cause, (PARKS 1-27).



- oversight.** Effecting an arrest and official documentation relating to the arrest should require at least a conferral with a supervisor, if not a supervisor's approval and signature.
- d. No photo arrays or line ups were conducted with any of the witnesses from the Hampton Inn Hotel. These are basic investigative steps that should have been completed. Detective Tapia failed to perform these steps and this demonstrates a **failure to supervise** by the detective squad supervisor.
 - e. Detectives Tapia and Goines took PO Lyszyk, a uniformed patrol officer with no investigative or secondary apprehension responsibility, more than thirty miles outside of their jurisdiction to apprehend Nijeer Parks. This is an unorthodox action in a police paramilitary structure, it is beyond the scope of a patrol officer's duties, and it should not have been permitted. This action displays a **failure to supervise** on behalf of both the patrol supervisor and detective squad supervisor. As noted above, it is highly irregular for a uniformed patrol officer to be brought more than 30 miles outside of his jurisdiction, and there is no obvious reason for that to have been done here other than for the detectives to have PO Lyszyk identify Nijeer Parks in person. Notably, such a one-on-one show up identification would likely have also been inadmissible if it had occurred.
 - f. Det. Tapia failed to investigate or recover video surveillance from the Dunkin Donuts. This lack of action caused the loss of potentially probative video that could have exculpated Nijeer Parks, and is indicative of poor case management and a **failure to supervise**. Investigators, even if well-meaning and hard-working, need supervisory oversight to help manage their cases and prioritize their assignments. Detectives left to their own devices will frequently miss investigative steps. A supervisory "hands off" approach often runs counter to the common good of the organization. This is precisely one of the reasons why detectives *produce* investigative work product and supervisors *review and approve* that work product.
 - g. Lt. Ng presided over, and personally contaminated, the show up identification procedure with PO Lee in the cell area.⁵¹ This demonstrates Lt. Ng's **failure to supervise**, as well as mistakes in his personal involvement in this case. Additionally, the show up identification

⁵¹ Lee deposition, page 28.



procedure conducted with PO Lee required documentation in the form of the Showup Identification Procedures Report Worksheet, as per the New Jersey Division of Criminal Justice (Rev 10/1/12). This worksheet was not completed by Lt. Ng.

- h. Latent prints collected at the crime scene were a match to Barrington Walker who lives in upper Manhattan and in close proximity to the Dunkin Donuts related to the recovered receipt. This information was communicated to the Woodbridge Police Department on February 22, 2019, but this exculpatory evidence was not acknowledged until January 22, 2021 (nearly two years later).⁵² This inexcusable delay demonstrates a **failure to supervise** by the detective squad supervisor.
- i. The failure of Det Kondracki to follow up on unambiguous alibi information conveyed to him by Nijeer Parks is indicative of poor detective management and demonstrates a **failure to supervise** by the detective squad supervisor. Had Det. Kondracki's supervisor been fulfilling their duties effectively, that supervisor should have directed Det. Kondracki to investigate Nijeer's alibi without delay, in order to confirm or disprove Nijeer's claim. At a minimum, the alibi claim and information should have been communicated to involved personnel and other supervisors, *particularly* because at the time of the interrogation there was no other evidence connecting Nijeer Parks to the crime. Of course, the corpus of research on alibis is that they are not taken at face value and must be investigated and evaluated for their believability.⁵³ Thus, gathering information to confirm or disprove a suspect's alibi is a basic, fundamental investigative step. The arrest process could have been - and in fact should have been - halted that day, pending the outcome of the alibi investigation.
- j. Police Director Hubner stated in his deposition that he agreed that the manner in which PO Lee participated in the show up was "very suggestive."⁵⁴ Yet, Lt. Ng has not been disciplined or re-instructed regarding his personal contamination of this show up identification procedure. This constitutes a **failure to supervise**.

⁵² Woodbridge Police Department ID suspect report, (PARKS 148).

⁵³ Alibi Generation and Discriminability (Matuku 2022).

⁵⁴ Hubner deposition, Page 82.



Training

During his deposition, Director Hubner testified that the Woodbridge Police Department has a Training Bureau, which is run by Sergeant Medina.⁵⁵ However, the Woodbridge Police Officers who provided depositions in this case testified to receiving little or no training by the department regarding facial recognition, or identification procedures:

- a. Police Officer Lee stated that after he has had no training on identification procedures, and no training on facial recognition hits, even after this incident.⁵⁶ He states that he goes to a mandatory seminar run by the county once a year and the training mostly consists of domestic violence.⁵⁷ He also attends firearms training.⁵⁸ Shockingly, he affirmed that what he knows about line ups and other identification procedures he references from television shows.⁵⁹
- b. Police Officer Lyszyk stated that he has had no training on identification procedures or facial recognition hits, even after this incident.⁶⁰ He knows that there are *standard operating procedures* regarding photo arrays, although he doesn't conduct them and knows nothing about lineups.⁶¹
- c. Although Det. Tapia stated that he had attended multiple training seminars and events, including at least two homicide schools, he concedes that this was his first experience utilizing facial recognition technology in the Woodbridge Police Department, but he affirmed that he has received on-the-job training facial recognition hits.⁶² He stated that he has received training in line up identification procedures.⁶³ He further stated that the way he corroborated that facial recognition lead was based on his "19 plus years on the job. If an officer identifies somebody, it's a positive identification".⁶⁴ He further states that "the police officer who was

⁵⁵ Id., Page 12.

⁵⁶ Lee deposition, Page 9.

⁵⁷ Id., Page 8.

⁵⁸ Id., Page 7.

⁵⁹ Id., Page 29.

⁶⁰ Lyszyk deposition, Page 21.

⁶¹ Id., Pages 32,33.

⁶² Tapia deposition, Page 101.

⁶³ Tapia deposition, Page 105.

⁶⁴ Id., Page 100.



conducting an investigation dealt with this person for over 20 minutes. He knows who he dealt with. I don't have to do a photo line up with him. It's kind of a confirmatory ID at that point."⁶⁵ Detective Tapia reaffirmed his incorrect belief multiple times during his deposition that in substance, on duty police officers don't view line ups or photo arrays.⁶⁶

d. Detective Quesada stated that he has had evidence collection training relative to his work as an ID detective, but no training in use of facial recognition.⁶⁷ Detective Quesada also stated that he has never received any training regarding how to fill out the Affidavit of Probable Cause and that "you just kind of go with it when you speak to the prosecutor."⁶⁸ Detective Quesada gives a relatively thorough description of the process of conducting a photo array in his deposition.⁶⁹ Among other guidelines and rules, he states that the photo array itself must be approved by the county prosecutor and there are papers that the viewer must sign, and that an uninvolved person must present the photo array to the viewer.⁷⁰ What Det. Quesada is describing is a double-blind photo array.

e. Police Director Robert Hubner stated that he created a dedicated training unit after he became Police Director in 2011.⁷¹ According to Director Hubner's testimony, "There were individuals who kind of handled training prior to that, but nobody was dedicated."⁷² Dir. Hubner stated that the training unit holds the necessary training as directed by the Attorney General's Office and that they (the training unit), document any in-house training and what training they send their officers to.⁷³ He further stated that the Attorney General's office does not have a model policy for

⁶⁵ Id., Page 104.

⁶⁶ Id., Page 104.

⁶⁷ Quesada deposition, Page 32.

⁶⁸ Id., Page 54.

⁶⁹ Id., Pages 55-57.

⁷⁰ Id., Page 57.

⁷¹ Hubner deposition, Page 13.

⁷² Id.

⁷³ Id., Page 12



the use of facial recognition technology and as such he has no plans to create one for his department until such time as the Attorney General produces one.⁷⁴

IV. Defensive Avoidance, Cognitive Bias, and Investigative Failure

According to Drs. Griffiths and Shepherd, defensive avoidance is a decision to minimize mental demands and to evade the complexity and implications of detail. It is manifested in taking the “short cut” as much as possible.⁷⁵ Many stressors contribute to these short cuts, including the volume of work, shortage of staff, resource limitations, etc. There are several indicators of Defensive Avoidance in the case of Nijeer Parks which are self-evident in this report and do not require a point-by-point analysis. Defensive avoidance crystallizes the need for strong supervision in organizations, but *especially* in law enforcement organizations because of how often in policing the product of our work necessarily demands the removal of one’s freedom via arrest. Therefore, it is crucially important to uncover and fully explore as much detail as possible, not to avoid it. The lack of attention to detail, among other operational and legal failures, was a reoccurring problem with regard to Nijeer Parks’ arrest. The commonality in cases of defensive avoidance is confirmation bias.⁷⁶ There are four main themes in Defensive Avoidance which are as follows:

- a) Assumption - The investigator assumes something to be the case, is established, or to have been done without independently verifying the information. In the case of Nijeer Parks, it’s clear that Det Tapia assumed that the recovered sneaker belonged to Nijeer Parks.. He assumed that the video at the Dunkin Donuts would not be probative. He assumed that the hotel clerks would have identified Nijeer similarly as PO Lyszyk did, so he failed to independently verify this information. Had he done so, he would have discovered Nijeer Parks was a much smaller person than the person encountered in the hotel lobby in stature and shoe size.
- b) Freezing – The investigator succumbs to premature closure of the case. He stops considering alternate explanations and will not revise the current theory. In the case of Nijeer Parks, Det Tapia’s rush to make an arrest resulted in his tunnel vision and did not consider alternate theories.

⁷⁴ Id., Page 80.

⁷⁵ Investigative Interviewing (Griffiths, Shepherd, 2013).

⁷⁶ Id.



- c) Seizing - The investigator is only drawn to the material that stimulates their senses. The material is dramatic, memorable, or vivid. It requires little mental effort because “it fits.” In the case of Nijeer Parks there are strong indicators of “seizing.” Once Det. Tapia received the facial recognition lead, no other investigative steps were conducted beyond verifying Nijeer’s address and conducting an improper confirmatory identification procedure.
- d) Relevance Filtering and Rapid Editing – The investigator “knows what he needs to know,” resulting in skim-reading reports, marginalizing evidence, perfunctory or unexecuted interviews, and reduction of facts in to main points.⁷⁷ The introduction of, what Det Tapia believed to be strong evidence produced by facial recognition technology, led to all of the other evidence in the case being apparently discounted, ignored or marginalized by Det Tapia. As evidenced in this case, there was no follow up interviews or identification procedures conducted with any of the hotel staff, fingerprints that were recovered at the scene received no investigatory follow up, and he reduced all the facts in the case to one main point, which is that the facial recognition lead was all he needed.

There are numerous ways a detective can be affected by cognitive biases and defensive avoidance which can lead to investigative failures. Bias is simply defined as prejudice for or against some person, place, or thing, usually in a way that lacks foundation or is unfair. In some instances, detectives display bias for or against evidence simply because of the way the incoming information is contextualized and framed. For example, in the case of Nijeer Parks, broadly speaking, the facial recognition lead was based on technology. Research shows that forensic or scientific evidence is often considered infallible, undeniable truth.⁷⁸ This often results, as it did in this case, in a detective *seizing* on a singular piece of scientific evidence, then discounting alternative theories, or exploiting potential leads, having given too much weight to the one piece of scientific evidence. The facial recognition lead, and the invalid identification procedures that followed, led Det. Tapia to shift from an evidence-based investigation to a suspect-based investigation where the detective is investigating the suspect and not the crime. Strong evidence that emerges early in an investigation can produce a rush to judgment, even if its reliability is uncertain.⁷⁹ This is supported by the fact that Det Tapia conducted no follow up investigation of any kind after receiving the facial recognition hit and was solely focused on Nijeer Parks. Depending on the crime under

⁷⁷ Id.

⁷⁸ Criminal Investigative Failures, D. Kim Rossmo Routledge, (2009).

⁷⁹ Cognition and detection: Reluctant Bedfellows, Stelfox, P. "Pease, (2005).



investigation, a suspect-based investigation is not always incorrect and has its place in anti-terrorism cases, drug cartel investigations, and organized crime investigations, just to name a few situations. However, it was incorrect in this case. The premature shift from evidence-based investigation to a suspect-based investigation has led to numerous false convictions.⁸⁰ Instances of *relevance filtering*, and other defensive avoidance techniques are more prevalent when there is a high-profile crime being investigated. In this case, the suspect vehicle attempted to hit PO Lee with his car, crashed into the hotel, and then led officers on a brief pursuit. Irrespective of the size of a police department, it's assumed and understandable that this would be considered a high-profile case within the Woodbridge Police Department.

Particular causal factor combinations tend to cluster together; for instance, high-profile crimes often caused a rush to judgment, followed by the premature shift from an evidence-based to a suspect-based investigation. These problems then led to tunnel vision and confirmation bias, ultimately leading to evidence failures.⁸¹ As evidence flows through all phases of a criminal investigation, any integral evidentiary problems risk derailing a successful outcome. There are three types of evidence error that can impede or bias detective decision-making.⁸² I have listed them below followed by examples of specific evidence failures from this case.

1. Evidence Collection—a failure to collect all the relevant evidence necessary to thoroughly investigate the case (e.g., crime scene evidence, neighborhood canvass, interviews); In this case, although the initial evidence collection at the crime scene was completed, follow up evidence was ignored. No Dunkin Donuts video was recovered and no identification procedures were conducted with any of the hotel staff. The alibi offered by Nijeer Parks were not investigated to either prove or disprove it.
2. Evidence Evaluation—a failure to assess evidence reliability (the probability an item of evidence—e.g., a confession, a witness statement, a lab analysis—is accurate or true); In this case, the fingerprints recovered from the hotel rear lobby door received no follow up for results, and the interrogation of Nijeer was ineffectual. Additionally, there was no known attempt to compare Nijeer Parks' shoe size to the discarded shoe

⁸⁰ Id.

⁸¹ Confirmation bias and other systemic causes of wrongful convictions, Rossmo, D. Kim, and Pollock (2019).

⁸² Id.



that was recovered at the crime scene. There was no known attempt to perform a direct comparison between Nijeer's fingerprints and the prints recovered from the scene.

3. Evidence Analysis—a failure to logically analyze the evidence (e.g., strength, reliability implications, connections, patterns). Here, the photo recognition lead was given far too much value by Det. Tapia. He stated in his deposition that he was aware that a facial recognition hit was merely an investigative lead and required other evidence to demonstrate probable cause.⁸³ The connection between the Dunkin Donuts receipt, the connection to the Bronx, and the recovery of potential probative video was not exploited or connected sufficiently by Det. Tapia.

Confirmation bias, with the support of faulty assumptions, probability errors, and groupthink, plays a key role in wrongful arrests and prosecutions. Detectives suffering from confirmation bias are more likely to interpret evidence in a prejudicial manner, uncritically accepting what supports their investigative theory while cursorily rejecting what does not (such as alibi information). They often fail to engage in differential diagnoses by considering other hypotheses of the crime or alternative suspects.⁸⁴

Confirmation bias has proved to be a major factor in the case of Nijeer Parks, with investigators and supervisors forging ahead with him as a suspect based solely on the facial recognition lead. Evidence that was either pending or already in police custody, such as the discarded sneaker, was prejudiced and therefore not considered.

V. Conclusion

*"Society is no longer willing to pay the cost of miscarriages of justice, ruined lives, compensation, and erosion of faith in the law, and those tasked with protecting the law, arising from improper conduct by investigators and their managers acting above the law."*⁸⁵

The job of any police executive is to keep the organization connected to its environment. That means monitoring court decisions, legislative trends, community attitudes, and police practices.⁸⁶ It also means keeping an agency's officers trained and informed about salient matters and

⁸³ Tapia deposition, page 99

⁸⁴ Confirmation bias and other systemic causes of wrongful convictions, Rossmo, D. Kim, and Pollock (2019).

⁸⁵ Investigative Interviewing, Griffiths, Shepherd, (2013).

⁸⁶ Why Law Enforcement Organizations Fail, O'Hara, (2012).



instituting policy revisions to ensure that police personnel are operating within the boundaries of the law.

The wrongful arrest and prosecution of Nijeer Parks was due to four main causes; a failed investigative process, improper identification procedures, failed supervision, and lack of training. The Woodbridge Police Department personnel failed to know, practice and/or be in compliance with, accepted out-of-court identification procedures, New Jersey Attorney General policies, and existing case law. The Woodbridge Police Department executive administration failed create or revise policies, and/or train its officers on lawful and admissible identification procedures, facial recognition technology, applicable case law, and legal investigative steps when utilizing facial recognition leads during investigations, as well as other basic and fundamental investigative functions during the investigations of crimes.

At the moment when Rockland County Intelligence Center returned a “high number hit”⁸⁷ via Facial Recognition technology to Det. Tapia identifying Nijeer Parks as the possible perpetrator - a pivotal moment for Nijeer Parks - the widespread intradepartmental lack of knowledge regarding identification procedures, facial recognition lead generation, basic investigative function, coupled with general administrative sloppiness and ineffective or absentee supervision, set in motion a confluence of events that resulted in the improper and suggestive identification procedures which led to the wrongful arrest of Nijeer Parks. Despite PO Lyszyk affirming his knowledge that facial recognition technology may only produce an investigative lead,⁸⁸ and Det. Tapia affirming that he was aware that a facial recognition “hit” does not establish probable cause,⁸⁹ the “hit” by Rockland County ROIC was in fact improperly used to establish probable cause in this case and served as the catalyst for Nijeer Parks’ arrest. Post initial crime scene, nearly all the investigative steps taken, up to and including the day of Nijeer Parks’ arrest (and his subsequent prosecution) were predicated upon a bad identification procedure initially conducted by Det. Tapia, to wit, having PO Lyszyk view the single photo contained in the Facial Recognition lead apparently contemporaneously with Nijeer Parks’ DMV photo.⁹⁰ The identification procedures conducted thereafter were predicated upon the first tainted one. Multiple identifications were made with either no understanding of, or the erroneous administration of, lawful and appropriate identification procedures. The fact that so many of the involved officers and supervisors had no knowledge or

⁸⁷ Tapia/Lyons email (PARKS 34).

⁸⁸ Lyszyk deposition, page 25.

⁸⁹ Tapia deposition, page 99.

⁹⁰ Tapia deposition, page 97 (unclear as to “we”).



training on how to handle a facial recognition hit, and so many of the involved officers had no training or knowledge about how to produce a legally sufficient, line up, show up, or photo array, or confirmatory identification, is almost inconceivable and speaks to a systemic failure within the WPD executive leadership and an abdication of their shared responsibility to keep their personnel informed and trained. These failures must be laid at the feet of the leaders of the city government and most directly, Police Director Hubner.

The lack of training for its personnel by the WPD's administration contributed to the officers' inability to perform their duties in a way that was legally, morally, and ethically sound. It is clear after reviewing several discovery documents that at minimum, those WPD members who provided deposition statements in this matter should have possessed the necessary knowledge to successfully conduct identification procedures, but did not. Specifically, the WPD members should know the necessary pillars to ensure that lawful identification procedures occur: a) the operational logistics of how to produce legally admissible and professional identification procedures and related work product, b) the local and federal case law surrounding legally admissible identifications, and c) the New Jersey Attorney General Guidelines for Out-Of-Court Identification Procedures. As it pertains to this case, this appears to apply irrespective of a member's seniority or rank in the Woodbridge Police Department, up to and including Director Hubner who, while being deposed in this matter, conflated two distinct identification processes, specifically, show ups and line ups into one hybrid phrase, "showup lineups."⁹¹ Furthermore, Director Hubner incorrectly stated that, "but there's a caveat to that, you know, with civilian witnesses, when an officer has direct contact with somebody, there's a little more weight to their identification."⁹² Notwithstanding an unqualified meaning of the word "weight," which is not expanded upon in Director Hubner's deposition, the statement itself is legally incorrect. My understanding of applicable case law is that police officers are not exempt from best practices as viewing witnesses in an out-of-court identification procedure, and must still satisfy the burden of temporal proximity or prior relationship status before participating in a showup or confirmatory identification procedure. Applicable case law in effect nullifies the distinction of whether the viewer making the identification is a police officer.

Indeed, the failure of all parties involved to acknowledge clear exculpatory evidence such as the obvious disparity of the heights of the suspect encountered at The Hampton Inn and Nijeer Parks,

⁹¹ Hubner deposition, page 66.

⁹² Id.



verifying the different shoe sizes of Nijeer Parks and the suspect at The Hampton Inn, and failing to prove or disprove Nijeer Parks' alibi, which included dates, times, locations, and participants, evinces a worrisome ethical problem for the investigating detectives and only serves to perpetuate the investigative pathologies of confirmation bias and *defensive avoidance*.

Regarding the fingerprint hit to Barrington Walker, one can only hope that the failure to acknowledge this print hit, which the WPD was notified of on February 22, 2019, and not recorded in the case until January 22, 2021, nearly two years later (and after this civil action was filed), is the product of incompetence, absentee supervision, and *defensive avoidance* in Woodbridge PD, and not indicative of greater malfeasance. In sum, it is clearly supported by the discovery, that after the initial facial recognition lead was received by Det Tapia, neither he nor anyone else involved in this case were interested in any other piece of evidence or circumstance and mistakenly rushed to arrest Nijeer Parks, without regard to pending fingerprint evidence, pending DNA evidence, or physical evidence such as disparities in height and shoe size. There was no photo array or other identification procedures administered to the hotel manager or staff, no video recovered from the Dunkin Donuts, and incorrect identification procedures were administered to witness officers. As the lead investigator, it was Det. Tapia's duty to aggressively pursue outstanding leads, not the least of which was inquiring about when the fingerprints would be returned after analysis. None of that occurred because of the misapplication of the incorrect facial recognition hit. As far as Det. Tapia was concerned, he *had his man*, and he completely and utterly failed to acknowledge any other evidence that was either pending or already in hand.

The practices of the Woodbridge Police Department will not improve, nor will its exposure to civil and perhaps criminal liability, because of a lack of understanding by local government and WPD leadership regarding what it takes to ensure that its officers are acting within the scope of legal admissibility. There is also a failure of the Woodbridge Police Department administration to ensure proper continuing education and training for its personnel. In today's society of rapidly changing technology, municipal policy, and law, the profession of police work is more challenging than ever before. As such, it demands a responsible, conscientious, and timely training regimen that should be designed at the highest levels of a police department's administration in conjunction with local prosecutors, the municipality's corporation counsel, and any other stakeholders to ensure the officers who police their community are carrying out their duties in a legal and just way.

At the time of this writing, according to reviewed depositions, no involved officer or supervisor has received discipline of any degree, nor training or re-training on the proper procedures for



conducting out-of-court identifications procedures, specifically, line ups, show ups, and photo arrays. To date, there is still no codified policy and/or training that exists within the Woodbridge Police Department regarding investigating leads produced by Facial Recognition Technology, and Director Hubner has asserted he has no plans to create one without the Attorney General doing so first.⁹³ This refusal to create policy to inform and protect personnel is an irresponsible mindset for a police executive. Moreover, the general lack of overall new policies and/or policy revisions is potentially very problematic and is evidenced by the fact that the Woodbridge Police Department Policies and Procedures Manual has not been updated since 2012.⁹⁴ There are multiple “model policy” templates for the use of facial recognition technology at the disposal of Director Hubner. There are several ethical use policy templates produced by the Bureau of Justice Assistance, the Major City Chiefs Association, and a Use Case Catalogue by the International Association of Chiefs of Police (IACP), all created through the collaboration of numerous Police subject matter experts and stakeholders in the United States.⁹⁵

“Failure in an organization occurs when some operation, employee, policy, or process produces results that deviate from expectations in substantial and disruptive ways.”⁹⁶ Both the absence of training and/or retraining regarding lawful identification procedures, and the absence of a codified policy for the Use of Facial Recognition technology are particularly egregious considering the breadth of the failures in this case.

VI. Documents Reviewed

- Andrew Lyszyk Deposition
- Jorge Quesada Deposition
- Santiago Tapia Deposition
- Edward Barrett Deposition
- Robert Hubner Deposition
- Nijeer Parks Deposition
- Woodbridge Incident Report #19010123, 1,2,3,4,5,6
- Woodbridge Nijeer Parks Arrest/Booking Report - PO Mirdala

⁹³ Hubner deposition, Page 80.

⁹⁴ Woodbridge Police Department Policy and Procedures Manual.

⁹⁵ IACP Model Policy, available at (WEB SITE) (restricted access) <https://www.theiacp.org/>

⁹⁶ Why Law Enforcement Organizations Fail, O’Hara, page 15 (2012).



- CAD Incident Report #1900123
- Motor Vehicle Consent to Search form – Det. Tapia (PARKS000094)
- New Jersey Police Crash Investigation Report – PO Flavell
- Vehicle Property Description Report – PO Lyszyk
- Tennessee Driver’s License – Jamel Owens
- Dunkin Donuts Receipt
- New Jersey CJIS Criminal History Report – Nijeer Parks
- CAD Incident Report #1904155 – Nijeer Parks walk in surrender.
- Civil Action No:2:21-cv-04021 – Second Amended Complaint
- Plaintiff’s Opposition Brief to Motion To Dismiss Of Middlesex County Prosecutor Defts.
- Plaintiff’s Answers to Interrogatories of Defendants Lyszyk and Licciardi
- Defendant Robert Hubner’s Certified Answers to Plaintiff’s First Set of Interrogatories
- Complaint-Warrant, The State of New Jersey vs. Nijeer Parks
- CAD Incident Report #19010176 – Impounding of Vehicle
- Rockland County Intelligence Center Officer Report for Incident 19RI00076
- New York State Intelligence Center – Request for Information form (PARKS92,93)
- Det Tapia Email communication chain/ Tapia-Lyons (PARKS 34,35)
- Woodbridge Police Department Criminal Invest. Division Voluntary Statement by Nijeer K. Parks – Det. Kondracki
- NJ ROIC form “Request for Facial Recognition/Photo Array”
- Woodbridge Police Department I.D. Bureau Report (PARKS97,98,99)
- NJCJIS 2000 Response- Criminal inquiry of Walker, Barrington dated 02/14/19 (PARKS100)
- Walker, Barrington – Print Cards (PARKS101-105)
- Letter requesting DNA discovery – Det. Quesada (PARKS106)
- Crime Scene Photos (PARKS 107-120)
- Miranda Card, signed Nijeer Parks (PARKS121)
- CODIS DNA fact sheet (PARKS122-133)
- Woodbridge Police Department Policy and Procedure “Collection and Preservation of Evidence”



- Latent Print Hit – Woodbridge PD- ID BUREAU SUSPECT REPORT “Barrington A. Walker” submitted 2/8/19, hit returned 2/22/19, Certified 1/22/21 (PARKS148)
- CODIS DNA HIT NOTIFICATION, Barrington Walker, dated July 30, 2021 (PARKS149)
- DNA LAB REPORT- NJ State Police – Results Obtained from Water bottle, not sneaker, dated 10/18/19 (PARKS151)
- Andrew Lyszyk resume (PARKS172)
- Interrogation video of Nijeer Parks

VII. Publications Reviewed

- <https://www.nj.gov/oag/dcj/agguide/Photo-Lineup-ID-Guidelines.pdf>
- Patrick O’Hara, *Why Law Enforcement Organizations Fail*, Carolina Academic Press, (2012)
- Kureva Pritchard Matuki, *Alibi Generation and Discriminability: Improving Innocent Suspects’ Accuracy and Examining Alibi Discriminability*, Office of Justice Programs, (2022)
- Griffiths & Shepherd, *Investigative Interviewing*, 2nd Edition, Oxford University Press, (2013)
- Rossmo D. Kim. *Criminal Investigative Failures*. Routledge, (2009).
- Rossmo, D. Kim. Dissecting a Criminal Investigation. *J Police Crim Psych* 36, 639–651 (2021).
- Rossmo, D. Kim, and Joycelyn M. Pollock. *Confirmation bias and other systemic causes of wrongful convictions: A sentinel events perspective*. NEULR 11 (2019)
- Stelfox, P. Pease, *Cognition and detection: Reluctant Bedfellows*. (2005)
- <https://www.state.nj.us/lps/dcj/agguide/photoid.pdf>
- Woodbridge Town Police Department Policies and Procedures, selected sections.
- Woodbridge Municipal Website: <https://www.twp.woodbridge.nj.us/197/Police-Department>
- *State v. Delgado*, 188 N.J. 48 (2006)
- *State v. Anthony* (A-11-17/079344) (2019)
- *State v. Henderson*, 208 N.J. 208 (2011)
- *State v. Pressley* (A-52-16) (078747) (2018)



- NJ Courts Rule 3:11-Recording Out of Court Identifications Procedure (2012, 2020)
- Attorney General Guidelines For Preparing And Conducting Out-Of-Court Eyewitness Identifications
- New Jersey Division of Criminal Justice (Rev.10/1/12) Showup Identification Procedures Worksheet
- New Jersey Division of Criminal Justice (Rev.10/1/12) Instructions for Using Showup ID Procedures
- IDEMIA Best Practices for Facial Recognition Leads, (2021)
- New York State DCJS Model Policy on Facial Recognition (2019)
- New York City Police Department Patrol Guide
- New York City Police Department Detective Guide
- Guiding Principles for Law Enforcement's Use of Facial Recognition Technology- IACP


VIII. Fee Schedule



Blue Top Consulting Inc. fee schedule:

Reading, Writing, Research, Phone/video conference, email, and other communication:	\$400.00/hour
Trial prep / Scheduled and present for Testimony / Testimony:	\$4000.00/day
Travel expenses and per diem, as they occur reimbursed or pre-paid by plaintiff	TBD

End Note: The opinions expressed herein do not reflect the opinions of, and are not made on behalf of, the Putnam County NY District Attorney's Office, the New York City Police Department, the John Jay College of Criminal Justice, or any other group or entity listed in the **Background and Qualifications** section of this report, or associated with person, Ralph J. Cilento or company, Blue Top Consulting Inc. The opinions, assertions, and conclusions are solely the product of my own experience, education, knowledge, and research, and are offered by request of Plaintiff's counsel. The opinions stated in this report are subject to change based on new information conveyed or discovery material received.

EXHIBIT “W”

Office of Forensic Sciences EVIDENCE RECEIPT				Submitting Agency (Case Number) 19010123		Laboratory Number E19-00917											
STATE OF NEW JERSEY DEPARTMENT OF LAW & PUBLIC SAFETY DIVISION OF STATE POLICE																	
East Regional Laboratory NJSP Office of Forensic Sciences Sea Girt Avenue P.O. Box 0233 Sea Girt, NJ 08750-0233																	
CRIME: Aggravated Assault on a Police Officer, Resist, Obstruct, Disarm an Officer, Shoplifting						COUNTY OF: MIDDLESEX											
VICTIM:		Age	Sex	Race	SUSPECT: UNKNOWN UNKNOWN		Age	Sex M	Race B								
SUBMITTING AGENCY: (Address) Woodbridge Twp PD										I MAIN STREET		WOODBRIDGE		NJ 07095		732-634-7700	
INVESTIGATED BY: P.O. QUESADA						DELIVERED BY: Michael Hanousck											
Brief History/Examination Requested: Offense Date: 01/26/2019 Location: HAMPTON INN WOODBRIDGE NJ ON 01/26/2019 A MALE SUSPECT WAS APPREHENDED WHILE SHOPLIFTING IN THE HOTEL STORE. DURING THE INTERVIEW OF THE SUSPECT, THE SUSPECT FLED THE HOTEL AND JUMPED INTO HIS VEHICLE. WHILE FLEEING THE SCENE, THE SUSPECT VEHICLE ATTEMPTED TO HIT A PATROL OFFICER ON SCENE AND DID HIT A MARKED PATROL VEHICLE. PRIOR TO FLEEING THE SCENE, THE SUSPECT DRANK FROM AND DISCARDED A WATER BOTTLE AND LOST ONE OF HIS SNEAKERS. FOLLOWING THE MOTORVEHICLE PURSUIT THE SUSPECT VEHICLE WAS LOCATED AND INSIDE A SECOND WATER BOTTLE AS WELL AS A VAPE PEN WAS FOUND. OUR AGENCY IS SUBMITTING THE WATER BOTTLE AND THE SNEAKER WITH A REQUEST TO EXAMINE FOR THE PRESENCE OF HUMAN D.N.A. FOR ANY QUESTIONS PLEASE CONTACT DET. GEORGE QUESADA AT 732-634-7700 EXT.2144																	
<u>Additional Names (if applicable):</u>																	
Item #	Dept. Item	Code	LIST OF SPECIMENS														
1	JMQ#4	SC	Case File:  One paper bag containing-Biological Specimen(s) - Questioned-ONE PLASTIC WATER BOTTLE THAT WAS DISCARDED BY SUSPECT.														
2	JMQ#5	SC	One paper bag containing-Biological Specimen(s) - Questioncd-ONE BLACK & RED NIKE SNEAKE THAT CAME OFF OF THE FLEEING SUSPECT.														

 NEW JERSEY STATE POLICE OFFICE OF FORENSIC SCIENCES FORENSIC SEROLOGY LABORATORY REPORT	Central Regional Laboratory 1200 Negron Drive Hamilton, New Jersey 08691 609-584-5054	Laboratory Number E19-00917 
	Submitting Agency Woodbridge Twp PD 1 Main Street WOODBRIDGE NJ 07095	Agency Number 19010123
Case: Aggravated Assault on a Police Officer, Resist, Obstruct, Disarm an Officer, Shoplifting UNKNOWN UNKNOWN [S]		Date of Report 04-17-2019

Evidence in this case was submitted to the Office of Forensic Sciences for examination.
 See *Evidence Receipt* for list of items.

Results/Opinions/Interpretations of Examinations:
Page 1 of 1

	Not Examined	Presumptive Testing*					Spermatozoa	Portion Submitted to DNA	
		Blood (Kastle-Meyer)	Semen (Acid Phosphatase)	Semen (p30)	Saliva (Amylase)				
Item	1	2	3	4	5	6	7		Comments
1. Water Bottle (SC)									
1-1. Swabbing - Cap and Mouth								X	
2. Sneaker (SC)									
2-1. Swabbing - Inside and Lace Ends								X	

*A positive presumptive test does not confirm the presence of the body fluid indicated.

A portion of #1-1 (1-1-1) and #2-1 (2-1-1) has been submitted to the DNA Laboratory.

A separate report will cover examinations conducted by the DNA Laboratory.

All remaining evidence submitted for Forensic Serology examination will be returned to the submitting agency.

This case was not processed for trace evidence (hairs, fibers, etc.). Upon receipt of the DNA results, and the assessment of those results, please contact the laboratory as soon as possible regarding the necessity for any trace evidence analysis.

Key	
+	Positive
ND	Not Detected
NEV	Nothing of Evidential Value
NFE	No Further Examination
INC	Inconclusive
QNS	Quantity of stain insufficient for analysis


Analyst:

Christina J. Knipper
Forensic Scientist 1
Peer Reviewed:

Approved By:


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EVIDENCE RETURN RECEIPT

STATE OF NEW JERSEY DEPARTMENT OF LAW & PUBLIC SAFETY DIVISION OF STATE POLICE OFFICE OF FORENSIC SCIENCES		Submitting Agency (Case Number)	Laboratory Number
		19010123	E19-00917
East Regional Laboratory NJSP Office of Forensic Sciences Sea Girt Avenue P.O. Box 0233 Sea Girt, NJ 08750-0233			
Offense Information CRIME: Aggravated Assault on a Police Officer DATE: January 26, 2019			

UNKNOWN, UNKNOWN (S)

ITEM LIST AND DESCRIPTION:

- 1 - DI# JMQ#4 One paper bag containing Biological Specimen(s) - Questioned - ONE PLASTIC WATER BOTTLE THAT WAS DISCARDED BY SUSPECT.
- 1-1 - DI# JMQ# One paper bag containing Biological Specimen(s) - Questioned - Swabbing - Cap and Mouth
- 2 - DI# JMQ#5 One paper bag containing Biological Specimen(s) - Questioned - ONE BLACK & RED NIKE SNEAKER THAT CAME OFF OF THE FLEEING SUSPECT.
- 2-1 - DI# JMQ# One paper bag containing Biological Specimen(s) - Questioned - Swabbing - Inside and Lace Ends

DATE/TIME	RELINQUISHED BY:	RECEIVED BY:
11/1/19 10:48	Sandra D. Rice East Regional Laboratory	 Michael Hanousek





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EXHIBIT “X”

 <p>NEW JERSEY STATE POLICE OFFICE OF FORENSIC SCIENCES</p> <p>DNA LABORATORY REPORT</p>	<p>DNA Laboratory 1200 Negron Drive Hamilton, NJ 08691 609-584-5054</p>	<p>Laboratory Number E19-00917</p> 
	<p>Submitting Agency Woodbridge Twp PD 1 Main Street WOODBIDGE NJ 07095 732-634-7700</p>	<p>Agency Number 19010123</p>
<p>Case: Aggravated Assault on a Police Officer, Resist, Obstruct, Disarm an Officer, Shoplifting</p>		<p>Date of Report 10/18/2019</p>
<p>See <i>Evidence Receipt</i> for list of items submitted to the Office of Forensic Sciences for examination.</p>		

Item(s) received by DNA Laboratory		Comments
1-1-1	Portion - Water Bottle Swabbing - Cap and Mouth (SC)	Results Obtained ¹
2-1-1	Portion - Sneaker Swabbing - Inside and Lace Ends (SC)	Results Obtained ¹

Key: s/sf = sperm fraction e/ef = epithelial fraction CODIS = Combined DNA Index System
¹STR amplification performed using the Promega PowerPlex Fusion 6C amplification system.
²YSTR amplification performed using the Applied Biosystems AmpFISTR Yfiler amplification system.

Results/Opinions/Interpretations

The mixed STR DNA profile obtained from Item 2-1-1 is not of sufficient quantity and/or quality for comparison purposes.

No conclusion can be reached concerning a possible contributor to the STR DNA profile obtained without submission of a DNA reference.

The STR DNA profile from Item 1-1-1 was entered into the CODIS database in accordance with state and national regulations, where regular searches will be performed. Notification will occur if there is a hit in the database or if the profile is removed from the database in the future.

Statistical calculations are performed using population frequencies from databases of unrelated African American, Caucasian, and Hispanic individuals. Source identity statements are used when the calculated frequency of the STR DNA profile is less than or equal to one in 7 trillion for randomly-selected unrelated individuals in each of these populations.

All remaining evidence received by the DNA laboratory is being returned to the submitting agency.



Melissa M. Leto
Forensic Scientist 1


Peer Reviewed By


Approved By

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EXHIBIT “Y”



NEW JERSEY STATE POLICE
OFFICE OF FORENSIC SCIENCES

CODIS
INVESTIGATIVE HIT
NOTIFICATION

CODIS Unit
1200 Negron Drive
Hamilton, NJ 08691
Harpreet Singh,
CODIS Administrator
609-584-5054 x 5423

July 30, 2021

CODIS Hit #: CH21-0817

To Sir/Madam:

During a search of the CODIS (Combined DNA Index System) database, a high stringency match occurred between the following:

CASE(S):

Lab Specimen ID	Agency Name/Case #	Offense Date	Offense	Contact Info
E19-00917 #1-1-1_VC	Woodbridge Twp PD 19010123	01/26/2019	Aggravated Assault on a Police Officer, Resist, Obstruct, Disarm an Officer, Shoplifting County of: MIDDLESEX	P.O. QUESADA 1 MAIN STREET WOODBIDGE NJ 07095 732-634-7700

OFFENDER:

State	Name	DOB	State ID #	CO #	Comments
Maine	Barrington Anthony Walker	02/28/93	N/A	N/A	FBI# 382204AE1

The purpose of this letter is to inform you of a possible investigative lead.

Please submit a buccal swab reference sample to the laboratory for comparison to the evidentiary DNA profiles.

If the New Jersey State Police Office of Forensic Sciences can be of any further assistance, please do not hesitate to contact the laboratory at 609-584-5054.

Sincerely,

Joseph Mignone
Forensic Scientist 2
NJSP Office of Forensic Sciences

Reviewed By:

cc: County Prosecutor's Office
NJSP Regional Operations Intelligence
Center Section

Page 1 of 1

CH21-0817

OFS(CODIS)044

(Rev 09/20)

Letter Format Approved By: Director OFS

PARKS000149

EXHIBIT “Z”



Rockland County Intelligence Center

Officer Report for Incident 19RI00076

Nature: Agency Assist

Address: 50 SANATORIUM RD BLDG P;
YHC Building P
NEW HEMPSTEAD NY 10977

Location: P7003

Offense Codes:

Received By: Lyons, S

How Received: T

Agency: RCI

Responding Officers: Lyons, S

Responsible Officer: Lyons, S

Disposition: 21 01/28/19

When Reported: 07:58:31 01/28/19

Occurred Between: 07:58:31 01/28/19 and 07:58:31 01/28/19

Assigned To:

Detail:

Date Assigned: **/**/**

Status:

Status Date: **/**/**

Due Date: **/**/**

Complainant: 2605

Last: RC SHERIFF'S
OFFICE

First:

Mid:

DOB: **/**/**

Dr Lic:

Address: 55 NEW HEMPSTEAD RD;
1030580 - Rockland County
Sheriffs Dept

Race: R

Sex: R

Phone: ()-

City: NEW CITY, NY 10956

Offense Codes

Reported:

Observed:

Circumstances

Responding Officers:

Lyons, S

Unit :

RI891

Responsible Officer: Lyons, S

Agency: RCI

Received By: Lyons, S

Last Radio Log: **:**:** **/**/**

How Received: T Telephone

Clearance: No clearance

When Reported: 07:58:31 01/28/19

Disposition: 21 **Date:** 01/28/19

Judicial Status:

Occurred between: 07:58:31 01/28/19

Misc Entry: NJ PD

and: 07:58:31 01/28/19

Modus Operandi:

Description :

Method :

01/31/19

PARKS000030

Officer Report for Incident 19RI00076

Page 2 of 4

Involvements

Date	Type	Description	Relationship
01/28/19	Name	RC SHERIFF'S OFFICE,	Complainant

01/31/19

PARKS000031

Officer Report for Incident 19RI00076

Page 3 of 4

Narrative

RCIC was provided information from the PIP Police NJ, Sgt R.Dey regarding an AGGRAVATED ASSAULT ON A POLICE OFFICER case. RCIC assisted the Woodbridge PD and utilized facial recognition software and received a possible HIT on a subject, NIJEER K. PARKS, 09/11/1987 (NJ). RCIC provided all information to the NJ PIP Police and Woodbridge PD, Det. Santiago Tapia (732) 602-7394. See attached PDF and flyer. Closed by investigation.

Responsible LEO:

Approved by:

Date

01/31/19

PARKS000032

Officer Report for Incident 19RI00076

Page 4 of 4

Name Involvements:

Complainant : 2605

Last: RC SHERIFF'S
OFFICE

First:

Mid:

DOB: **/**/**

Dr Lic:

Address: 55 NEW HEMPSTEAD RD;
1030580 - Rockland County
Sheriffs Dept

Race: R

Sex: R

Phone: () -

City: NEW CITY, NY 10956

01/31/19

PARKS000033

TAPIA, SANTIAGO

From: Seamus Lyons <lyons@RCPIN.net>
Sent: Monday, January 28, 2019 9:29 AM
To: TAPIA, SANTIAGO
Subject: RE: Aggravated Assault on a Police Officer (Flyer)

Good news. Yes, I used facial recognition software but altered the photo on the license a little to get the pixels clear. Got a high number hit and he is a Patterson NJ guy. We have facial recognition here at the Rockland County Intel Center. Keep my info and if you need anything in the future call or email. Stay safe.

Seamus

ROCKLAND COUNTY INTELLIGENCE CENTER PO BOX 295, NEW CITY, N.Y. 10956
INVESTIGATOR SEAMUS A. LYONS #891
ROCKLAND COUNTY SHERIFF'S DEPARTMENT INTELLIGENCE CENTER
55 NEW HEMPSTEAD ROAD, NEW CITY, N.Y. 10956
W-MAIN-845-364-3611
W-DIRECT-845-364-3632
W-CELL-845-521-0334
EMAIL- lyons@rcpin.net<mailto:lyons@rcpin.net>

From: TAPIA, SANTIAGO [santiago.tapia@twp.woodbridge.nj.us]
Sent: Monday, January 28, 2019 9:24 AM
To: Seamus Lyons
Subject: Re: Aggravated Assault on a Police Officer (Flyer)

Yes. He's fine. How did you guys ID him. Facial recognition through NYSIC or the ROIC?

Sent via the Samsung Galaxy S8, an AT&T 4G LTE smartphone

----- Original message -----

From: Seamus Lyons <lyons@RCPIN.net>
Date: 1/28/19 9:17 AM (GMT-05:00)
To: "TAPIA, SANTIAGO" <santiago.tapia@twp.woodbridge.nj.us>
Subject: RE: Aggravated Assault on a Police Officer (Flyer)

Excellent !!!!!!!!!!! how is the officer. Is he ok?

ROCKLAND COUNTY INTELLIGENCE CENTER PO BOX 295, NEW CITY, N.Y. 10956
INVESTIGATOR SEAMUS A. LYONS #891
ROCKLAND COUNTY SHERIFF'S DEPARTMENT INTELLIGENCE CENTER
55 NEW HEMPSTEAD ROAD, NEW CITY, N.Y. 10956
W-MAIN-845-364-3611
W-DIRECT-845-364-3632

W-CELL-845-521-0334

EMAIL- lyons@rcpin.net<mailto:lyons@rcpin.net>

From: TAPIA, SANTIAGO [santiago.tapia@twp.woodbridge.nj.us]

Sent: Monday, January 28, 2019 9:16 AM

To: Seamus Lyons

Subject: Re: Aggravated Assault on a Police Officer (Flyer)

That's him.

Thank you and Sgt. Dey for your help.

Tapia

Sent via the Samsung Galaxy S8, an AT&T 4G LTE smartphone

----- Original message -----

From: Seamus Lyons <lyons@RCPIN.net>

Date: 1/28/19 8:40 AM (GMT-05:00)

To: "TAPIA, SANTIAGO" <santiago.tapia@twp.woodbridge.nj.us>

Subject: Aggravated Assault on a Police Officer (Flyer)

See attached PDF regarding your PD Police Information flyer Aggravated Assault on a Police Officer. Good possible hit on facial recognition. It was sent to us from the NJ PIP Police Sgt R. Dey. Let me know if you need any further. Good luck.

Inv Seamus Lyons

ROCKLAND COUNTY INTELLIGENCE CENTER PO BOX 295, NEW CITY, N.Y. 10956

INVESTIGATOR SEAMUS A. LYONS #891

ROCKLAND COUNTY SHERIFF'S DEPARTMENT INTELLIGENCE CENTER

55 NEW HEMPSTEAD ROAD, NEW CITY, N.Y. 10956

W-MAIN-845-364-3611 ✖

W-DIRECT-845-364-3632

W-CELL-845-521-0334

EMAIL- lyons@rcpin.net<mailto:lyons@rcpin.net>

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EXHIBIT “AA”

Main Form

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**WOODBIDGE POLICE DEPARTMENT
WOODBIDGE, NJ**
INCIDENT # / REPORT #

19010123 / 1

OFFICER

LYSZYK A

BADGE

519

REVIEW STATUS

APPROVED

INCIDENT #19010123 DATA

As Of 02/01/2019 10:05:04

BASIC INFORMATION**CASE TITLE**

AGG ASS/ WOODBRIDGE TWP

LOCATION

370 US HWY 9 N

APT/UNIT #**DATE/TIME REPORTED**

01/26/2019 12:21:50

DATE/TIME OCCURRED

On or about 01/26/2019 12:21

INCIDENT TYPE(S)/OFFENSE(S)

(2C:20-11)SHOPLIFTING

(2C:12-1B(2))AGGRAVATED ASSAULT W/WEAPON

(2C:29-3)HINDERING APPREHENSION OR PROSECUTION

(2C:21-2.1(C))EXHIBITIS A FALSE GOVERNMENT DOCUMENT

(2C:35-10(A)(4))POSSESSION OF CDS (MARIJUANA) UNDER 50G

(2C:36-2)USE OR POSSESSION DRUG PARAPHERNALIA

(39:4-129)LEAVING SCENE OF ACCIDENT

(39:4-96)TRAFFIC REGULATION

(39:3-76.2)SAFETY BELTS OR RESTRAINING DEVICES

(2C:29-2A(2))RESISTING ARREST/BY FLIGHT

(39:4-130)TRAFFIC REGULATION

(2C:29-1)OBSTRUCTING ADMINISTRATION OF LAW OR OTHER GOVERN

(2C:29-2(B))ELUDING

(2C:17-3)CRIMINAL MISCHIEF

(2C:39-4(D))POSS WEAPON UNLAWFUL PURPOSE OTHER WEAPONS

PERSONS**ROLE**

VICTIM

NAME

WOODBIDGE TWP.

SEX**RACE****AGE DOB****PHONE****ADDRESS:** 1 MAIN ST WOODBRIDGE, NJ

(HOME) 732-634-776

(CELL.)

VICTIM

HAMPTON INN,

ADDRESS: 370 US HIGHWAY 9 NORTH HOPELAWN, NJ

(WORK) 7328556900

(CELL)

REPORTING
PERSON

CHARNECO, RICHARD A MALE WHITE

ADDRESS: 370 RT. 9 NORTH WOODBRIDGE, NJ

(HOME)

(CELL)

PARKS000064

Main Form

Page 2 of 5

WITNESS HIGGINS, CALEIGH FEMALE WHITE [REDACTED] (HOME)
ADDRESS: 370 RT. 9 NORTH WOODBRIDGE, NJ [REDACTED] (CELL) [REDACTED]

WITNESS GRANT, KAMISHA FEMALE BLACK [REDACTED] (HOME)
ADDRESS: 370 RT. 9 NORTH WOODBRIDGE, NJ [REDACTED] (CELL) [REDACTED]

OWNER/OPERATOR HERTZ, (HOME)
ADDRESS: 900 DOREMUS AVE PT NEWARK, NJ (CELL)

VICTIM LEE, FRANCIS POLICE MALE ASIAN/PACIFIC 36 10/17/1982 (WORK) 732634770c
ISLANDER
ADDRESS: 1 MAIN STREET WOODBRIDGE, NJ (CELL)

OFFENDERS

STATUS	NAME	SEX	RACE	AGE	DOB	PHONE
SUSPECT	UNKNOWN, UNKNOWN UNKNOWN					(HOME) UNKNOWN
	ADDRESS: UNKNOWN UNKNOWN,					(CELL) UNKNOWN
SUSPECT	PARKS, NIJEER K	MALE	BLACK	31	09/11/1987	(HOME)
	ADDRESS: 485 E. 19TH ST 3G PATTERSON, NJ					(CELL)

VEHICLES

ROLE	TYPE	YEAR	MAKE	MODEL	COLOR	REG #	STATE
SUSPECT VEHICLE		2018	DOD	CHA	GRAY	JBD2162	NY

STOLEN \$	REC CODE	DATE REC	REC \$	REC BY

PROPERTY

CLASS	DESCRIPTION	MAKE	MODEL	SERIAL #	VALUE
OTHER	FAKE TENNESSE DL				
OTHER	2 BACKWOOD SARK STOUT CIGAR PACKS			801527486	
OTHER	2 BACKWOOD SWEET AROMATIC CIGAR PACKS				
DRUGS/NARCOTICS	44 GRAMS OF SUSPECTED MARIJUANA				
DRUG/NARCOTIC EQUIPMENT	MARIJUANA GRINDER				
OTHER	SPRINT SIM CARD			8901120200	
OTHER	DUNKIN DONUTS RECEIPT			855	
OTHER	13 ASSORTED CANDIES				
OTHER	2 CLEAR EYE DROPS				

PARKS000065

Main Form

Page 3 of 5

OFFICER REPORT: 19010123 - 1 / LYSZYK A (519)

DATE/TIME OF REPORT

01/26/2019 14:18:31

TYPE OF REPORT

INCIDENT

REVIEW STATUS

APPROVED

NARRATIVE

While on patrol, Ptl. Lee and I were dispatched to Hampton Inn (370 Rt. 9 North Woodbridge) on a report of a shoplifting. HQ advised us that the caller stated that the male's vehicle, NY JBD2162 Gray Dodge Challenger, was parked in front of the hotel.

Ptl. Lee arrived on location prior to my arrival and was already speaking to the male, that identified himself as Jamal Owens. The male told us that he was going to pay for the snacks that he took, but left his money in the car. When he went out to his car, he placed the snacks on the seat and came back in with his money. However, when he was coming back into the hotel lobby to pay for the snacks, he felt the need to go to the bathroom. When he came out of the bathroom, he saw Ptl. Lee standing there.

I walked over to the hotel counter and spoke to the two clerks, Caleigh Higgins and Kamisha Grant, and the hotel manager, Richard Charneco. Charneco advised me that one of the cleaning personnel saw the male place a bunch of snacks into his bag and then put it in his vehicle. At that point he called the police. Charneco stated that he wanted the male to pay for the items, 13 assorted candies and 2 Clear Eye eye drops (total value \$39.00), that he took. I told the male that the hotel wanted him to pay for the items and asked him where they were. The male told us that the snacks were in his car. We then walked out to the car, grabbed the snacks from the vehicle, brought them back to the counter, and paid for them. The male also purchased a bottle of water and took a sip out of it when he paid for the snacks. Ptl. Lee advised me that the Tennessee driver's license, DL # 801527486 Jamal Owens 765 Oakdell Ave. Madison TN 37115 DOB 10-15-93, that he gave him was not coming back on file and gave it to me so I can check it in the car.

While in my car, I attempted to find Jamal Owens, but kept on receiving a not on file result. At that time, I compared the license that he gave Ptl. Lee to the Tennessee license on the I.D. checking guide and found multiple discrepancies. The discrepancies that I found were that there were asterisks where numbers were supposed to be and the zip code to his mailing address was 5 digits instead of nine. At that time, I contacted the Tennessee State PD at the Knoxville, TN office and spoke with supervisor Jason Beary. I advised him of my situation and asked him if he could check his system to confirm that there was not a glitch between our systems. Supervisor Beary advised me that the DL number and the name Jamal Owens was not on file within their DMV. Supervisor Beary also advised me that the driver's license in Tennessee should start with 0 instead of 8.

At that point I went back into to the lobby and confronted the male. The male was still holding onto the bag of candy and water bottle. I advised him of the situation and asked him if he had any other forms of identification on him. At first he stated that he did not have his wallet on him, but then took out his wallet from his pocket. He opened up his wallet and showed me a credit card with the name, Jamal Owens. I then asked him if he was staying at the hotel so that I can confirm who he is. He advised me that he was not staying at the hotel and was just there for the Hertz rental car store.

Since he admitted to shoplifting the snacks and I was not able to identify him; I told him to turn around and place his hands behind his back. The male turned around and placed his hands behind his back. When he did that, I was able to see a big bag of suspected marijuana, that was halfway in a black plastic shopping bag, protruding from his left jacket pocket. I grabbed him by the wrist, took the bag out of his pocket, dropped it on the floor, and went to place Ptl. Lee's handcuffs on him. As I was about to place the handcuff on his wrist, the male slipped away from

PARKS000066

my grip and started to run towards the rear of the lobby.

We called out the foot pursuit and began to chase him towards the rear of the lobby. His right sneaker fell off prior to exiting the rear door, which is next to the Hertz car rental kiosk. He exited the rear door and ran towards the rear gate, which was closed. He pushed open the gate, made a right turn, ran towards Dunkin Donuts, and began to run back towards the front of the hotel. While he was running, he kept placing his right hand into his jacket pocket and kept looking back at us. He ran back towards the front of the building and jumped into the driver's seat of the vehicle, NY JBD2162. We caught up to him at the vehicle, pointed our weapons at him and ordered him to shut the car off. However, the male placed the vehicle in reverse and backed the vehicle up a few feet and stopped. Once stopped he told us not to shoot him and moved his left hand towards the side of his seat. I told him to keep his hands where I could see them or I was going to shoot him. I then told him to unlock his door, but he refused and said that he will unlock the door only if we put our guns away. We told him that our guns were staying out and ordered him to open the door. However, he refused again and began to hit the steering wheel with his fists while sitting in the driver's seat unbuckled. After some time, the male placed the car in drive, hit the gas, turned the steering wheel to the left, struck the rear driver's side of patrol car #3, and then hit the pillar at the Hampton Inn. When he did that, the male turned the vehicle towards Ptl. Lee and Ptl. Lee had to move out of the way to avoid serious injury. After hitting the pillar, the male put the vehicle in reverse, I moved out of the way, and the male backed the vehicle up. The male then sped off towards Miller's Ale House, made a left towards Rt. 9 north, drove the wrong way on the ramp (ramp from Rt. 9 North to Millers Ale House), and made a right onto Rt. 9 north. Once on Rt. 9, the vehicle sped off at a high rate of speed.

We hoped in our vehicles and attempted to follow him. At this time multiple units were on Rt. 9 north, but we were unable to locate the vehicle or the suspect. Therefore, I went back to Hampton Inn to preserve the scene. As I returned to the scene, Charneco advised me that he collected the items that were dropped on the floor, placed it in a bag, and moved it to the side. Charneco then gave me the bag and I secured the items in my patrol car. I then notified HQ that I needed additional units on scene to help preserve the scene. I also asked HQ to notify the detective bureau about the incident and to notify them that we need the scene processed. Ptl. Campagnio arrived on scene and preserved the rear gate, Ptl. Lee arrived on scene and preserved the rear door, Ptl. Montalvo arrived and preserved the front entrance where the motor vehicle crash occurred, and Det. Tapia and Det. Quesada arrived on scene to process it, see additional reports.

I then went to the Hertz kiosk to talk to the employee that was dealing with the male. However, there was no one there so I went to the hotel desk. I asked the hotel clerks if they knew where the Hertz employee was. Higgins advised me that the employee came over to her and said "ah shit that was one of my cars". The employee then handed Higgins a key to another vehicle and told her that a customer is going to pick up a vehicle. After giving her the key the Hertz employee told her "I just got to step outside and figure it out". After the employee went outside, she did not see him again. None of the hotel personnel know who the Hertz employee is. I attempted to get a hold of a manager, but had negative results. Charneco also advised me that there is CCTV on site, but he would not be able to access it until Monday.

Prior to leaving the scene, I notified Det. Quesada that the male left his right shoe and water bottle behind. I also advised him that I still had the fake driver's license that the male gave me in my possession. The following items were inside the black bag, which came out of the male's left jacket pocket, suspected marijuana, a crumpled Dunkin Donuts receipt, four packs of Backwood cigars, a Sprint sim card, and a marijuana grinder. The other bag that the male dropped contained 13 assorted candies and two Clear eyes eye drops that he purchased.

I transported the items to HQ without incident. I placed the suspected marijuana on a scale to weigh it. The total weight of the suspected marijuana was 44 grams. The information on the

PARKS000067

Main Form

Page 5 of 5


Tennessee driver's license did not match any Tennessee driver's license on file. However, the image on the driver's license was the suspect. The suspected marijuana, grinder, Sprint sim card, four packs of Backwoods cigars, fake license, and the Dunkin Donuts receipt was placed into evidence locker. The candies and eye drops were also placed into the evidence locker for safe keeping. Det. Quesada came downstairs and took custody of the Air Jordan sneaker and bottle of water so that he can attempt to extract DNA from them. The detective bureau took over the investigation.

REPORT OFFICERS

Reporting Officer:	LYSZYK A	519
Approving Officer:	LICCIARDI J	450

PARKS000068

EXHIBIT “BB”

	WOODBIDGE TOWNSHIP POLICE DEPARTMENT Policy & Procedures IN-SERVICE, SPECIALIZED AND ROLL CALL TRAINING		
	Chapter: 432	Volume Four: The Personnel Process	
Date(s):	Authority	General Order #:	File #:
Effective: Dec. 4, 1997	Chief Wm. Trenery	97-017	432-971
Revised: Nov. 7, 2007	Chief Wm. Trenery	07-009	432-071
Revised: Feb. 27, 2008	Chief Wm. Trenery	08-002	432-081
Revised: Oct. 8, 2010	Chief Wm. Trenery	10-005	432-101
Revised: March 15, 2012	Director R. Hubner	11-003	432-121
Revised:			
Revised:			
LEGAL REFERENCES: Attorney General Guidelines Re: Annual and Semiannual Training			
ACCREDITATION STANDARDS REFERENCES: 33.5.1, 33.5.2, 33.6.1, 33.6.2, 33.7.1, 33.7.2, 33.8.1, 33.8.2, 33.8.3			

432.1**POLICY & PURPOSE:****432.1.1**

POLICY: It will be the policy of the Woodbridge Township Police Department to implement, and maintain, a comprehensive in-service training program.

432.1.2

PURPOSE: The purpose of in-service training and education is to keep personnel up to date with new laws, technological improvements, and revisions in agency policy, procedures, rules, and regulations. In-service training serves to motivate experienced officers and furthers the professionalism of the agency.

432.2**ESTABLISHMENT OF IN-SERVICE TRAINING:****432.2.1**

ANNUAL TRAINING: In accordance with guidelines issued by the Attorney General of the State of New Jersey, all employees authorized to carry a weapon or make arrests shall receive annual in service training. Training may include periodic refresher courses, specialized skill development training, career development training to include promotional supervisory training, and roll call training. All other personnel may receive in-service training as required by their assignment or position within the organization.

A. ANNUAL TRAINING REQUIREMENTS: All sworn personnel of this agency are subject to complete an annual retraining program which, at a minimum, shall include the following elements:

8/1/23, 10:31 AM

432 - IN-SERVICE, SPECIALIZED AND ROLL CALL TRAINING

1. Domestic Violence (4 hours per year)
 2. Blood borne Pathogens
 3. Hazardous Materials
 4. Right to Know
 5. Cardio Pulmonary Resuscitation
 6. Legal Updates: Changes in Statutory or Case Law Affecting Law Enforcement Operations
 7. Changes to departmental policy and procedures, and rules and regulations.
 8. Cell Block Management
 9. Active Shooter
 10. All Hazard Plan
 11. Bias Based Profiling
- B. SEMIANNUAL TRAINING REQUIREMENTS: All sworn personnel of this agency are subject to complete a semiannual retraining program which, at a minimum, shall include the following elements:
1. Firearms
 2. Use of Force
 3. Pursuit Driving
- C. BIENNIAL TRAINING REQUIREMENTS: All sworn personnel of this agency are subject to complete a biennial retraining program which, at a minimum, shall include the following elements:
1. Ethics
 2. Sexual Harassment
 3. Bias
 4. Expandable Batons
 5. OC Spray
- D. TRIENNIAL TRAINING REQUIREMENTS: All sworn personnel of this agency are subject to complete a retraining program which, at a minimum, shall include the following elements:
1. Emotionally Disturbed Persons
- E. OTHER TRIENNIAL TRAINING REQUIREMENTS:
1. Holding Facility Training: For all employees who work in direct, continuing contact with detainees.
- F. OTHER MANDATORY TRAINING: Certain personnel assigned to specialized units shall undergo mandatory retraining, as follows:
1. Special Operations Team Members
 2. Instructors (Re-Certifications)
 3. Marine Unit
- G. TRAINING COURSES: The Departmental Training Officer is responsible for the completion of the agency training program. Training shall be scheduled by the departmental Training Officer and may be accomplished through several methods. These may include, but are not limited to, scheduled training assignments at courses offered by police training academies; attendance at seminars and lectures offered by private and governmental entities presenting relevant training seminars; scheduled in-house training programs, roll call briefings, video training and computer based training.
- H. INITIAL TRAINING: All newly hired sworn officers will receive training on all Standard Operating Procedures.

432.3

ESTABLISHMENT OF ROLL CALL TRAINING:

432.3.1

GENERAL REQUIREMENTS: Roll Call training is a useful element of agency training which is used to supplement all other training. The goal of Roll Call training is to keep officers up to date between formal training sessions.

- A. PLANNING FOR ROLL CALL TRAINING: The Departmental Training Officer shall be responsible for planning a regularly scheduled program of Roll Call training. Planning shall include reviewing topics appropriate for roll call training presentation.

8/1/23, 10:31 AM

432 - IN-SERVICE, SPECIALIZED AND ROLL CALL TRAINING

B. TECHNIQUES & METHODS FOR TRAINING: The techniques used to administer the Roll-Call Training will include review of written and video training memoranda and materials. Supervisors will be responsible for ensuring all personnel assigned to their direct supervision will review the Roll Call training materials in the time frame specified by the departmental Training Officer. Officers are responsible for reviewing the materials as assigned.

1. Roll-Call training will be scheduled during an officer's normal tour of duty. Materials (if hand-outs are made available) will be designed so that officers are able to use them as assigned, and as time permits during the course of their shifts.
2. Each Supervisor will be responsible for documenting the training received by all employees under his/her assigned supervision. Supervisors will document such training on the daily End of Tour report and advise the Training Office (via e-mail or white sheet) that specific training was conducted.

C. EVALUATION OF ROLL CALL TRAINING: Supervisors should regularly evaluate roll-call training as it relates to the programs presented and should also offer suggestions for roll call training which may be needed. Evaluation will be informal and may take the form of verbal or written communications to the Departmental Training Officer.

432.4

ESTABLISHMENT OF SPECIALIZED TRAINING:

432.4.1

GENERAL REQUIREMENTS: Where necessary, this agency shall provide specialized training (pre and/or post specialized training) for positions requiring such training.

A. POSITIONS REQUIRING SPECIALIZED TRAINING: The following positions and/or assignments will require specialized training.

1. All personnel promoted to a supervisory positions, upon promotion or shortly thereafter.
2. Officers assigned to the Criminal Investigative Division.
3. Officers assigned to the Special Operations Team.
4. Officers assigned as Hostage Negotiators.
5. Officers assigned to Marine Unit
6. Officers assigned to the Accreditation Office
7. Officers assigned as narcotics detectives

B. TRAINING COMPONENTS:

1. The Departmental Training Officer will schedule the assigned person to initial and in-service training which develops and/or enhances the skills, knowledge and abilities particular to the specialization. Initial training will be accomplished in a timely manner.
2. The Supervisor of the person assigned to the specialized position will be responsible for completing training related to management, supervision, administration, personnel policies, and support services of the specialized function. Additionally, the Supervisor will also ensure the assigned person is given supervised on the job training.

C. MINIMAL TRAINING FOR SPECIALIZED ASSIGNMENTS: Upon appointment the employee will attend the following minimum training as soon as practical:

1. Newly promoted first-line supervisors:
 - a. Basic supervisory training
 - b. Employee assistance
2. General detective assignment with Criminal Investigation Division
 - a. Basic Criminal Investigation
 - b. Interview and Interrogation school
3. Identification detectives
 - a. Crime scene school (fingerprint classification, collection of evidence, photography and DNA)
4. Evidence technicians
 - a. Property & Evidence handling and processing course
5. Special Operations Team

- a. Basic SWAT course
- 6. Hostage Negotiator
 - a. Basic Hostage Negotiation Course
- 7. Marine Unit
 - a. Basic Marine Course conducted by the NJ State Police
- 8. Accreditation Office
 - a. Accreditation Manager training
- 9. Traffic Enforcement Unit
 - a. Crash 1
 - b. Crash 2
- 10. Narcotic Detectives
 - a. Interview and interrogation school
 - b. Basic narcotics investigation
- 11. Internal Affairs
 - a. Background Investigation school

432.5

TRAINING FOR CIVILIAN PERSONNEL:

432.5.1

GENERAL REQUIREMENTS: The Departmental Training Officer or his/her designee shall ensure all newly appointed civilian personnel receive pre-service training.

A. TRAINING ELEMENTS: Pre-service training will minimally include:

- 1. Orientation to the agency's role, purpose, goals, policies, and procedures.
- 2. Working conditions and regulations.
- 3. Responsibilities and rights of employees.

B. POSITIONS REQUIRING TRAINING: In accordance with various mandates with regard to confidentiality of police records, as well as any legislative requirements, the following civilian positions require both pre-service and in-service training.

- 1. Special Police Officers (Class I)
 - a. Use of Force
 - b. Domestic Violence
 - c. CPR annual training
- 2. School Crossing Guards
 - a. Traffic Safety
- 3. Civilian Communications Officers
 - a. Cell Block Management
 - b. 911 certification
 - c. Emergency Medical Dispatch
 - d. CPR annual training
- 4. Matrons
 - a. Cell Block Management
- 5. Domestic Violence Crisis Response Team Members.
 - a. Domestic Violence 40-hour Initial Course for Crisis Response Members
- 6. Secretarial Positions (involving Criminal Justice Reporting and Record Keeping Functions, UCR Reporting; Maintenance of Warrants & Court Processes; Archive Regulations; etc.)
- 7. Civilian Accreditation Manager
 - a. Accreditation Manager training
- 8. Civilian Evidence Technicians
 - a. Property and Evidence handling and processing course

C. MANDATORY TRAINING FOR ALL EMPLOYEES:

- 1. Biennial Training:

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- a. Sexual Harassment
- b. Ethics
- c. Bias

432.6

CAREER DEVELOPMENT

432.6.1

GENERAL REQUIREMENTS: Personnel, such as supervisors, counselors and the departmental Training Officer, who will be assigned to conduct career development activities shall undergo a period of orientation that will provide knowledge and skills.

A. TRAINING ELEMENTS: Career development training will consist of the following:

1. General counseling techniques
2. Techniques for assessing skills, knowledge, and abilities
3. Salary, benefits, and training opportunities of the agency
4. Educational opportunities and incentive programs
5. Awareness of the cultural background of ethnic groups in the program
6. Record keeping techniques
7. Career development programs of other jurisdictions
8. Availability of outside resources